

LINCOLN DOUGLAS POSITIONS



Number 5
UTILITARIANISM

**The Lincoln-Douglas Positions
Five - Utilitarianism
by Scott Robinson**

Copyright © 2004 by Paradigm Research, Inc. All rights reserved.

First Edition Printed In The United States Of America

For information on Paradigm Debate Products:

PARADIGM RESEARCH

P.O. Box 2095

Denton, Texas 76202

Toll-Free 800-837-9973

Fax 940-380-1129

Web /www.oneparadigm.com/

E-mail service@oneparadigm.com

All rights are reserved. This book, or parts thereof, may not be reproduced by any means - graphic, electronic, or mechanical, including photocopying, recording, taping, or information storage and retrieval systems - without the written permission of the publisher. Making copies of this book, or any portion, is a violation of United States and international copyright laws.

LINCOLN DOUGLAS POSITIONS



Number 5
UTILITARIANISM

LD POSITIONS

by Scott Robinson

UTILITARIANISM

Table of Contents

INTRODUCTION TO LD POSITIONS	2
TELEOLOGICAL ETHICS IN LD	4
BENTHAM'S GREATEST HAPPINESS PRINCIPLE	6
Foundations of Benthamite Moral Theory	6
Legislation and Punishment	14
Private Ethics	24
MILL'S THEORY OF UTILITY	29
Foundations of Millian Utilitarianism	29
Society and Utility	37
Justice and Utility	41
FOUNDATIONS OF SINGER'S PREFERENCE UTILITARIANISM	49
Preference Utilitarianism	49
Equal Consideration of Interests	55
Animal Liberation	59
APPLICATIONS OF SINGER'S ETHICS	65
World Hunger	65
Civil Disobedience	74
CONCLUSIONS	82
EXAMPLE CASE	83
ANNOTATED BIBLIOGRAPHY	85
TERMINOLOGICAL APPENDIX	86
ACKNOWLEDGEMENTS	87

INTRODUCTION TO LD POSITIONS

The original edition of LD Positions exceeded all of my hopes and expectations. The success of the original edition inspired me to work on a new, expanded edition over the past few years. I can only pray that these books reach as many students as the original editions and that readers can gain a better understanding of key arguments in the canon of LD debate.

In this new edition, you will find new authors and new arguments as well as minor revisions to the original texts. These new authors serve to extend on major themes often present in the original text. The new authors also bring new arguments and new perspectives to the various positions. The addition of the new authors should provide new alternatives to case writing and debates on a wide variety of topics.

These books are written for the novice debater, just beginning to confront these issues, as well as experienced debaters who are familiar with many of these arguments. For the novice debater, these books provide an accessible introduction to often-daunting texts of political philosophy. LD Positions will examine the major themes in each text and contrast each text with major opponents. These books in no way replace the original texts, but should help a student approach the original texts. I suggest reading through each LD Position once. Then, read the LD Position a second time while simultaneously reading the original texts.

These strategies are particularly important when approaching advanced texts. Some authors (notably, Sandel and Gewirth) are very difficult to understand. You have to spend time thinking about their arguments. Better yet, you should organize a group to discuss the arguments. Your debate team is a pre-defined group that might be interested. Even without a debate team, you might be able to find interested people to join you in reading through these classic texts. Philosophy is a pleasure best enjoyed when shared. Discussing these arguments in a group will help you see the arguments from a variety of perspectives. In order to aid in the group reading process, I have provided discussion points at the end of various sections of each text.

Advanced students will find a different set of lessons in LD Positions. Advanced students will find applications of abstract principles to concrete policy issues. Advanced students will also find a discussion of issues that are often ignored in debates on the issues. The LD Positions are simply more in-depth than any lecture or debate case can be. Finally, the LD Positions use contrasts of closely related works to present each work in a context often missing in debate. Each philosopher is discussed in the context of his or her contemporaries and the historical tradition in which he or she is writing. This context provides a dimension to reading political philosophy that is often missing in debate.

The LD Positions are not comprehensive critical analyses of the various authors discussed. Space would not allow a comprehensive treatment of even one author for each volume. People seeking more advanced treatments of the authors should find books written by trained political philosophers who have devoted their lives to these issues. The LD Positions are written from the perspective of a debate coach and do not focus on many issues that while important to philosophical discussions are peripheral to most LD debate topics.

The LD Positions are also not a comprehensive treatment of all arguments relevant to LD Debate. I have selected these issues based on my experiences. I have found that the authors discussed in LD Positions are the most frequently relevant and most frequently discussed authors in LD debate. There are many authors who are excellent political philosophers that simply were not appropriate for the LD Positions as currently designed.

With these caveats in mind, I would suggest you keep the following objectives in mind while you read this book.

1. The back of the pages of this book were left blank so that you can take notes. Use this space to jot down your ideas on your present topic or any other ideas you have for future topics. Since you should read through these books multiple times, these notes can mark your progress and the evolution of your thinking regarding each position. You should keep these notes in order to address your questions to friends or coaches.
2. Read these texts alongside the original texts when possible. Each position is written in the order of the original texts where possible (sometimes at the cost of clear organization). This format should help you read the original text alongside each LD Position. This will give you a far richer appreciation of the context of the arguments and give you additional sources of arguments I was not able to cover in this book.
3. There are a number of new additions to the format. You will find discussion questions and sample resolutions to stimulate thought and conversation on the different theories. You will also find a terminological index that defines some of the key terms that are not found in a standard dictionary.
4. Finally, you will find a sample case using the authors in each volume. The cases will illustrate the application of these arguments to actual debate topics. In order to make the cases accessible to any reader, these cases only use quotations appearing in the text. This leaves many of the arguments (particularly the specific contentions) underdeveloped. The purpose of the cases is to illustrate the use of the substantive material in the lectures and not to illustrate the ideal case for any topic. You should focus your attention on the value and criteria in each case and how the arguments are linked to the other arguments (that in practice should have better evidence).

You are about to begin a journey through some of the most important issues in political and moral philosophy. I only hope that you can get as much out of these philosophies as I did in my first exposure to these issues. Enjoy the ride.

TELEOLOGICAL ETHICS IN LD

Utilitarianism has a pretty bad reputation in LD. When I started debating, it was fairly common to see cases that supported or negated a resolution based on strict utilitarian arguments. Of late, I can not remember the last time I saw such a case in a major national tournament. It would seem that utilitarianism has fallen out of favor and may be a dangerous strategy.

But it is not that simple. The use of teleological arguments is as common today as it ever was, maybe more common. The distinction between teleological arguments and utilitarianism is mostly (but not entirely) rhetorical. The most important arguments in both theories are similar. Both theories suggest that an action be evaluated based upon the effects of that action. What an action is expected to do is considered the basis for whether that action is right or wrong.

Teleological philosophy is simple to explain. I argue that it is the easiest value justification to sell to most judges. The trick in running this philosophy is to disguise it so that people recognize their personal beliefs in it, but are not turned off by the associations with the word utilitarianism. You must get past the stock answers that people make against utilitarianism and expose the central arguments contained therein.

The first selling point of teleological theory is the intuitive nature of the evaluation that is sought by teleological theories as well as by the particular theory of utilitarianism. When people are asked to evaluate an action, they usually want to know the details of the effects. If you know nothing about an act, but are required to judge that act, it is common to ask questions regarding the effect of the act. This line of questions assumes that lines of causality are part of the justification of an action. People condemn crime because of the harm it causes. People condemn government intrusion because of the harm it causes. Anytime you use the word "cause" in the description of a justification you are accepting (to some degree) the theory of teleology.

Particular theories, derived from the teleological argument that actions should be evaluated based upon their effects, try to answer the question of what effects create strong justification (or the reverse)? Utilitarianism is one of these derivative theories. As we will see, it suggests that all actions be evaluated based upon the action's tendency to cause happiness and prevent pain. This is a fairly simple proposition; it is one that is difficult to substantiate. What entails happiness (or pleasure) is a hotly contested debate within and without the theory of utilitarianism.

The most difficult arguments to defend in LD are piecemeal arguments that you do not truly comprehend. The rampant misunderstandings of utilitarianism require special care to ensure that people will embrace the truth of the theory. But, the theories are very important to the development of moral theory and to the full argumentation of any LD resolution.

The most common argument against any teleological theory, particularly against utilitarianism, is that these theories allow for the ends to justify the means. It is hard to argue this because it is fundamentally the truth. This phrase is loaded with connotations. But, think about it for a moment. If the ends do not justify the means; what does? All utilitarian thinkers would agree that some ends do not justify some means. The question is: What ends justify which means? Theories that use causality (that is, any theory that evaluates what causes what) assume this to some degree. Most of the common examples of misuses of this doctrine are also unjustified under utilitarianism.

The most common examples are slavery and genocide. These two phenomenon were justified with reference to their ends. That is true. At the same time, it is important to realize that rule based morality was also used to justify these systems. Nazis believed that the extermination of Jews, gypsies and other "inferior" components of German society was a moral requirement. They felt these people were not pure. The idea of purity is not a teleological one, but a rule based one. In the case of slavery, some of the most famous arguments for slavery were not based upon the efficiency of the system, but upon some rule that mandated that certain races of people were "inferior" to others. The proclamations of "inferiority" were based upon rule based moral systems; not upon the effects of the actions themselves. In this way, utilitarian authors hoped that teleological theories could prevent such atrocities.

The next most common argument against utilitarianism is the more theoretical argument in favor of inalienable human rights. The argument is usually presented in this way: If we are allowed to justify anything by its effects, then no individual rights are safe from social bargaining. I personally find this very persuasive, but it starts to break down in any example. In a specific example, it is compelling to defend the life of an innocent person. What this argument does not explain is that utility is only an issue if more innocent people will be killed by not sacrificing the single original individual. This is possible in the case of infectious disease or any other number of innocent threats. It is easy to defend the protection of an innocent person. But, in the end, the protection of one innocent may require the sacrifice of others. Utilitarianism would only sacrifice the life of an innocent person if the lives of more than one innocent person would be saved by doing so.

Utilitarianism is at its best when it is used to resolve complicated cases. No one needs a moral theory to help them decide whether the arbitrary killing of an innocent person is justified. It is when competing interests are at stake (as is often the case in LD resolutions) that utilitarianism is needed. If used in this way, to resolve conflicting claims, utility can be a powerful argument.

A command of these two arguments is essential to a successful use of utility principles in LD. You must be able to sell the need and desirability of evaluating the effects AND the impossibility of justifying an action by anything besides its ends. With these arguments, you should be able to win a lot of rounds (especially with the "lay" judge). I use "lay" in the sense that they have few preconceptions about arguments; this is not necessarily a bad thing. It is sad that people are often described as skilled judges because they often agree with you or they agree with your interpretation of a philosophy. Many trained judges will not even listen to a utilitarian argument unless you do a very good job of explaining it. That is your mission if you choose to accept it.

BENTHAM'S GREATEST HAPPINESS PRINCIPLE

Bentham is the popularizer of utilitarian moral theory. His book THE PRINCIPLES OF MORALS AND LEGISLATION set the standard for utilitarian theorists and fundamentally shaped the development of utilitarian theory for years to come.

The beginning of any classic book should be the title. This work, in particular, reveals much about its interior via its title. Bentham creates a linkage, if not an equality, among morality and legislation. Bentham's theory will look at the relationship between moral decision making and legislation (in the sense of the actual creation of laws by a government). The theory of utility will compare these two types of decisions much more than do the deontological theorists. Kant (in LD POSITIONS #4: DEONTOLOGY) derived legislation from moral theory. Bentham will, instead, say that both legislation and morality are fundamentally the same thing. In this respect, the principles which govern morality and those that govern legislation are similar.

Foundations of Benthamite Moral Theory

Bentham's theory begins with the assumption that all human decision making is designed to aid us in the pursuit of pleasure and the avoidance of pain.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.1.

Nature has placed mankind under the governance of two sovereign masters, pain and pleasure. It is for them alone to point out what we ought to do, as well as to determine what we shall do. On the one hand the standard of right and wrong, on the other the chain of causes and effects, are fastened to their throne.

This quote lays out Bentham's major moral argument for the entire book. He suggests that people are ruled by pain/pleasure responses; they ought to be. This is what can be termed the naturalistic fallacy. The naturalistic fallacy states that the natural condition of society is not a sound basis for deciding what the world ought to be. Bentham takes the opposite side of the debate. He would argue that basing morals upon any unreal condition of human psychology (any system that ignored the pain/pleasure response) would be irrational and unsound.

The fact that people are governed by the pain/pleasure response creates a framework for all moral decision-making, be it by an individual or by a legislator. The first step for all moral decision making is to recognize the centrality of pain/pleasure conditions, henceforth simply called utility, and universalize it. Each person ought to act to maximize the utility for all people; not simply act on the basis of their own utility.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.2

By the principle of utility is meant that principle which approves or disapproves of every action whatsoever, according to the tendency which it appears to have to augment or diminish the happiness of the party whose interest is in question: or, what is the same thing in words, to promote or to oppose the happiness. I say of every action whatsoever; and therefore not only of every action of a private individual, but of every measure of government.

The consideration of every affected person is what makes utilitarianism compelling. Utilitarianism considers the effects of an action upon all the people that an action may touch. Many rule based theories would limit the consideration to those who held some sort of right, utilitarianism considers all people to have one fundamental right to equal consideration as people who feel pleasure and pain. Rule based theories are rampant with conflict between different rights. Utilitarianism suggests that there must be a final principle to adjudicate the claims of all of these conflicting rights and it is best if that principle be that of equal claims to utility.

The generality of the utility principle is expanded when Bentham defines utility to include the pleasure and pain of individuals and groups.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.2

By utility is meant that property in any object, whereby it tends to produce benefit, advantage, pleasure, good, or happiness, (all this in the present case comes to the same thing) or (what comes again to the same thing) to prevent the happening of mischief, pain, evil, or unhappiness to the party whose interest is considered: if that party be the community in general, then the happiness of the community: if a particular individual, then the happiness of that individual.

The affected parties can include any number of people from a single individual to a whole group or even an entire nation. The need to evaluate the interests of all affected parties is a very intuitive notion. Rule based theories are notorious for defining which parties' interests are worth considering by defining which parties have rights in a given instance. This allows for gross inequalities depending upon the definition of rights in a given situation. With rule based systems, the ability to define rights and assign them to particular groups in society is, in essence, the ability to define who deserves moral treatment.

The first step in the Nazi propaganda war against the Jews was to dehumanize the Jews. The ability to perpetrate atrocities was dependent on the notion that some people have no rights; that they have no claims to respect. Rule based systems allow this sort of discrimination in the assignment of rules if the theories are misapplied. The utility principle presented by Bentham does not allow for the defining of some people out of the group that merits rights.

There is a conceptual problem with attributing claims to communities. Communities, themselves, do not have utility considerations.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.3.

The community is a fictitious body, composed of the individual persons who are considered as constituting as it were its members. The interest of the community then is, what? -- the sum of the interests of the several members who compose it.

The impossibility of a community utility cloaks the continuing need to protect the utility of each individual. The theory of utility requires that all people be included in the calculation of interests; the community is not defined by some rights claim but rather by affected status. The individual is the sole basis for all moral considerations.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.3

It is in vain to talk of the interests of the community, without understanding what is the interest of the individual. A thing is said to promote the interest, or to be for the interest, of an individual, when it tends to add to the sum total of his pleasures: or, what comes to the same thing, to diminish the sum total of his pains.

The utility principle generates moral obligations; obligations to maximize utility for all affected parties. This allows utility arguments to work in LD, despite what seems to be an general antagonism on the part of the wording committee against utilitarian arguments. Utilitarian authors generally use the language of justification to couch their moral arguments. They reject the concept of duty as the basis for moral decision making. At best, they refer to duties as derivative of the true justification inherent in utility maximization. They do not feel comfortable with the standard definitions of "ought" as an obligation or duty. To Bentham, "ought" is captured under the principle of utility.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.3.

When an action, or in particular a measure of government, is supposed by a man to be conformable to the principle of utility, it may be convenient, for the purposes of discourse, to imagine a kind of law or dictate, called a law or dictate of utility: and to speak of the action in question, as being conformable to such a law or dictate.

The use of the term "ought" has not always predominated LD resolutions. When I first started debate there were no "ought" topics in the 4 major NFL topics. When I graduated, half of the topics were based upon the term "ought"; this year all of the topics included the term "ought". This has biased the debate, in terms of the definitions of ought, against utilitarian justifications. You can use Bentham's use of the term ought in order to link the utilitarian tradition to the resolution.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.4.

Of an action that is conformable to the principle of utility one may always say that either that it is one that ought to be done or at least that it is not one that ought not to be done. One may say also, that it is right it should be done; at least that it is not wrong it should be done: that it is a right action; at least that it is not a wrong action.

Maybe next year will feature some resolutions that don't require as much trouble to make the linkage work for you.

The broad scope of this argument has been fundamental to most moral theory since its inception. Bentham notices this and suggests that most arguments against utilitarianism are actually proofs of the theory. When someone argues that utility is a bad way to make decisions because it allows for oppression, they may be saying that the principle of utility does not sufficiently recognize the utility of the minorities in society. This assumes that utility is the correct basis of moral decisions, but that the calculation of utility is often misapplied. This argument, then, accepts the theory of utility as a reason to reject the theory.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.4-5.

When a man attempts to combat the principle of utility, it is with reasons drawn, without his being aware of it, from that very principle itself. His argument, if they prove anything, prove not the principle wrong, but that, according to the applications he supposes to be made of it, it is misapplied. Is it possible for a man to move earth? Yes; but he must first find out another earth to stand upon.

When you use utilitarianism to support a resolution, remember that there are two types of responses for which you must be prepared. The first, and most common, are arguments that suggest that more utility is offered by your opponent. The second, and more difficult argument to debate, is an actual criticism of the use of utilitarian analysis. Be careful to listen for these two arguments because debaters will often mislabel them. They will often try to label an argument that is of the first type as an argument that actually disproves utilitarianism. Your responses to each type should be different. Make sure you know which arguments are which.

This general explanation of the principle of utility leads Bentham to predict which arguments will be aimed at utilitarianism. He begins with the possibility of a universalistic critique of his theory (such as Kant might have offered). He suggests that any theory which voluntarily ignores the greatest happiness is an unsustainable code of ethics.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.13.

The principle of utility is capable of being consistently pursued; it is but tautology to say, that the more consistently it is pursued, the better it must ever be for humankind. The principle of asceticism never was, nor ever can be, consistently pursued by any living creature. Let but one tenth part of the inhabitants of this earth pursue it consistently, and in a day's time they will have turned it into hell.

One could say that this principle of asceticism was tested; it was a system where every person was asked to give of themselves for the community (for the good of the community itself). The communist nations posited a system of self-denial as a road to progress. Well, I guess we can say where that went.

Furthermore, the quote serves to turn around universalistic moral theories; only happiness can be made universal. The principle of asceticism is described by many as the principle of altruism and self-sacrifice. If the individual continually sacrifices him or herself to some separate good, then the individual can not serve the interest of others for long. Eventually, the individual has sacrificed themselves completely and can no longer serve anyone's interest.

Another type of moral theory (that Bentham feels competes with his own theory of utilitarianism) is the theory of sympathy.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.15.

By the principle of sympathy and antipathy, I mean that principle which approves or disapproves of certain actions, not on account of their tending to augment the happiness, not yet on account of their tending to diminish the happiness of the party whose interest is in question, but merely because a man finds himself disposed to approve or disapprove of them: holding up that approbation or disapprobation as a sufficient reason for itself, and disclaiming the necessity of looking out for any extrinsic ground.

Many LD moral theories resemble this theory. People create moral rules based upon arbitrary systems of intrinsic worth. Whenever you hear the term "intrinsic" worth, you should listen very carefully for any sign that your opponent is applying a system of sympathy. You will find that intrinsic worth is usually a sign of post hoc moral reasoning in LD.

Bentham clarifies the principle of sympathy by likening it to the moral theory of Kant.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.17.

The various systems that have been formed concerning the standard of right and wrong, may all be reduced to the principle of sympathy and antipathy. One account may serve for all of them. They consist all of them in so many contrivances for avoiding the obligation of appealing to any external standard and for prevailing upon the reader to accept of the author's sentiment or opinion as a reason for itself.

The term "external standard" is difficult to understand in reference to anything other than Kant's moral theory. Kant suggested that all moral theory must be based upon principles that each individual would choose as universal law; the important aspect is that each individual is choosing the principles themselves. The individual choice of moral standards renders all of the decisions internal. Kant suggests that this makes all moral decisions autonomous. Bentham does not see the importance of this. If all decisions are autonomous, or at least not based on external standards, then what role does morality play in decision making? If morality consists in acting on maxims you freely choose, what does morality really do other than rationalize your maxims?

Bentham suggests that, instead of a internal standard, morality is rightfully dominated by an external standard. This allows Bentham to argue that people who do not recognize a principle can be wrong and the truth of morality is independent of individual interpretation. This, ironically, leads to a dogmatic system. Since the principle of sympathy requires that rules be applied without reference to the context of the action, there is a tendency to overreact to breaches in the law.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.20.

The principle of sympathy and antipathy is most apt to err on the side of severity. It is for applying punishment in some cases which deserve none: in many cases which deserve some, it is for applying more than they deserve. There is no incident imaginable, be it ever so trivial, and so remote from mischief, from which this principle may not extract a ground of punishment.

This can be summed up as the need for exceptions. A common argument against strict legalism is the starving man scenario. Is a man immoral for stealing bread to feed his starving family? The intuitive answer is no; this is where Bentham focuses his attention. Bentham suggests that a person is not immoral if they steal in order to maximize aggregate utility by feeding their starving family (despite aggrieving the merchant). The conscious choice to support the utility gain of the family over the marginal utility loss of the merchant is a moral choice.

A deontological interpretation would be to argue that stealing is immoral; that is that. It is immoral to break the rule against stealing. There are no such things as extenuating circumstances. There are no justifiable excuses for breaking a rule. Because of this inflexibility in rule based systems, Bentham judges them harshly. One rhetorical way to put it is that rule based systems forgot that, in the end, rules are made for people; not people for rules.

The only way to make the rule for actions consistent is to explain rules and excuses in one fell swoop. The principle of utility allows for one system to explain both rules and excuses.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.23.

The only right ground of action, that can possibly subsist, is, after all, the consideration of utility, which, if it is a right principle of action, and of approbation, in any case, is so in every other.

This is one of the most compelling reasons for utilitarian reasoning. One system can explain the basis for all action. In Kant's theory, there had to be fundamentally different rules for external and internal rule making. Bentham wants his theory to unite all of the types of decision making under one principle: the principle of utility.

The uniting of all decision making under one principle means that all legislators, be they legislators of individual action or social regulation, are constrained by the principle of utility.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.24.

It has been shown that the happiness of the individuals, of whom the community is composed, that is their pleasures and their security, is the end and the sole end which the legislator ought to have in view: the sole standard, in conformity to which each individual ought, as far as depends upon the legislator, to be made to fashion his behavior.

This quote generalizes the moral requirements of the principle to embrace the use of legitimate coercion. Since moral principles are external to the individual, the individual can be forced to conform to the principles of utility. This impacts the relevance of having the same moral standard for individual and legislative action. The unity of these two principles allows for all moral action to be legally required.

Bentham develops his argument to encompass both final ends as well as a method to evaluate the means employed in any situation. In this way, Bentham does not justify the means by the ends; he simply weighs the means and the ends by the same standards.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.25.

Having taken a general view of these two grand objects (viz. pleasure, and what comes to the same thing, immunity from pain) in the character of final causes; it will be necessary to take a view of pleasures and pain itself, in the character of efficient causes or means.

The inclusion of efficiency as an important aspect of any moral action allows for the path to an end to be relevant to the morality of any action. Utilitarian theory, thus conceived, requires that the means be the least invasive, or the least costly. This places a limit on what means ought to be used in the pursuit of a goal. Moral theories that do not look at actions as ends and means do not allow for the analysis of the means. If you pronounce all ends of some sort legitimate, you do not leave room to analyze or constrain the means to achieve those ends. Utilitarian analysis requires an analysis of both aspects of an action.

This theory leaves much room to elaborate on the concept of utility. Bentham suggests that the utility of an action is contained in four major components of each action.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.29.

To a person considered by himself, the value of a pleasure or pain considered by itself, will be greater or less, according to the four following circumstances:

1. Its intensity.
2. Its duration.
3. Its certainty or uncertainty.
4. Its propinquity or remoteness.

As a list, this seems to be a bit stunted. It gives no insight as to how an individual should compare certain distant pleasure against uncertain close pain. It provides only a beginning to the definition of utility and sets up a rough framework of how utility can be compared. It is really only useful to support some intuitive notions of utility equations; close pain is worse than distant pain, etc. Moreover, when the analysis of utility turns to actions rather than conditions, two more components must be taken into account.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.29.

But when the value of any pleasure or pain is considered for the purpose of estimating the tendency of any act by which it is produced, there are two other circumstances to be taken into account; these are,

5. Its fecundity, or the chance it has of being followed by sensations of the same kind: that is, pleasures, if it be a pleasure: pains, if it be a pain.
6. Its purity, or the chance it has of not being followed by sensations of the opposite kind: that is, pains, if it be a pleasure: pleasures, if it be pains.

This is a very complicated system. Six different components must be assessed in each case. This is not likely to happen in every instance. Bentham recognizes that this is too complicated for constant use. But, is it really more complicated than the analysis of universal law?

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.31.

It is not to be expected that this process should be strictly pursued previously to every moral judgment, or to every legislative or judicial operation. It may, however, be always kept in view: and as near as the process actually pursued on these occasions approaches to it, so near will such process approach to the character of an exact one.

In the theory of rational decision making, this is the beginning of what is called bounded rationality. Each person can not possibly possess the ability to assess all of the utility of any action; instead, we make educated guesses based on a series of simplifying tools. Bentham suggests that we think carefully about these simplifying tools because they will define the moral purity of our actions.

Bentham recognizes that, with the ambiguity of the six characteristics of each object and the possibility of simplifying tools, subjectivity is quite likely. In fact, it is quite likely that people will come up with very different conceptions of the utility of every object.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.43.

But in the same mind such and such causes of pain or pleasure will produce more pain or pleasure than such or such other causes of pain and pleasure: and this proportion will in different minds be different. The disposition which any one has to have the proportion in which he is affected by two such causes, different from that in which another man is affected by the same two causes, may be termed the quality or bias of his sensibility.

The acceptance of bias causes some problems with the previous arguments on legitimate coercion. The unity between individual and legislative standards creates a possibility for forced acceptance of utilitarian morality. But, if individuals can not agree due to bias, what legitimacy is left? This indictment can be leveled against almost all moral theories. Rule based theories leave a lot of ambiguity in which rules need to be applied in what instance. Utilitarianism applies one rule, the principle of utility, but it still has a lot of problems defining how, and in what instances, specific actions are justified.

To complicate the topic of bias, Bentham recognizes some specific sources of bias. One of the largest sources, most important in the development of political science literature, is the bias of expectation. People are more likely to feel deprived of something if they expect they will receive it or they see other people receive it. Systems of high inequality of income may create instances where the poor see the items money can buy, but have no money to buy these items. The condition wherein people see others enjoying items that you have no access to is called relative deprivation and is central to some of the literature on political revolution and social criticism. Bentham recognizes that expectation creates bias in the analysis of utility.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.49.

The quantity of pleasure or pain, which on any occasion a man may experience from an application of any sort, may be greatly influenced by the expectations he has been used to entertain of pleasure or pain from that quarter; but it will not be absolutely determined by them: for pleasure or pain may come upon him from which he was not accustomed to expect it.

The inclusion of expectation, as a basis of utility, creates another complication without much simplification. The inclusion of expectation creates more confusion with the expansion of the psychological conditions for utility. If utility considerations will differ based upon the expectation of pleasure or pain, what is the likelihood that an external authority can objectively value the utility of the situation? The more Bentham includes in the evaluation of utility, the more he separates external and internal valuations of utility. Therefore, the use of coercion to force an individual to act in a utilitarian fashion is less legitimate.

Legislation and Punishment

Following this general discussion of the philosophical issues in the concept of utility analysis, Bentham moves to the application of the principle of utility to the principle at hand: the ability of a state to punish lawbreakers. Philosophically, it is quite difficult to justify the coercion of any person; much less punishment. Punishment entails making some person do something when that requirement is only justified due to some past action. Punishment of innocents is strictly forbidden. There should be a warning contained in this. If punishment of innocents is strictly forbidden, why is it moral to punish criminals?

In a rule based system, this entails the recognition of a moral significance in the act of violating positive law. Somehow breaking a law makes one subject to treatment inappropriate otherwise; the act of punishment is granted to be a non-universal concept.

A utilitarian argument can incorporate punishment without creating different rules for different people. This is the centerpiece of Bentham's political theory. He sees the government as mostly an agent of punishment.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.70.

The business of government is to promote the happiness of the society, by punishing and rewarding. That part of its business which consists in punishing, is more particularly the subject of penal law. In proportion as an act tends to disturb that happiness, in proportion as the tendency of its pernicious, will be the demand it creates for punishment. What happiness consists of we have already seen: enjoyment of pleasures, security from pains.

The role of government is troubling for most moral theories. Bentham defines it broadly to include both acts to punish transgression of law (in order to promote happiness) and governmental "rewards". The concept of political rewards opens up possibilities of positive actions and claims on the government for positive rights.

The reason that Bentham can take what would be a fairly controversial stance in a rights based system is that he does not really care about the concept of legitimate means or claims upon government. Bentham only looks at the potential for a policy to promote or inhibit happiness; he does not ask whether the action is positive or negative.

In Bentham's defense, it seems that many philosophies spend so much time looking at the form of legislation (whether it be positive or negative) that they neglect the question of what ends are legitimate for government. Bentham suggests that the manner in which governments support utility is much less important than the requirement that they do, in fact, support utility. What is important is that a person or legislator wills an end; in this lies the utilitarian importance of intent. Intended ends are the basis for rational action and, thus, the analysis of intent is needed to predict which consequences are forthcoming. If a consequence is unrelated to an intent, then the consequence is independent of human action and is not really in the domain of moral theory.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.71.

It is also to be observed, that into the account of the consequences of the act, are to be taken not such only as might have ensued, were intention out of the question, but such also as depends upon the connexion there may be between these first-mentioned consequences and the intention. The connexion there is between the intention and certain consequences is, as we shall see hereafter, a means of producing other consequences. In this lies the difference between rational agency and irrational.

In this way, Bentham does not differentiate between negative acts of government (acts to stop some deleterious action), positive actions (acts which support the individual action in some area, e.g. by funding some endeavors) or inaction (where the government selectively ignores some issue). He does recognize the differences between positive and negative action; he feels that the positive/negative phrasing is not a useful distinction.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.72.

Acts may be distinguished in several ways, for several purposes. They may be distinguished, in the first place, into positive and negative. By positive are meant such as consist in motion or exertion: by negative, such as consist in keeping at rest; that is, in forbearing to move or exert one's self in such and such circumstances.

The distinction between positive and negative acts is common in rule based theories and American constitutional jurisprudence. It is a persuasive argument to suggest that there is a difference between a positive right to a job and the negative right not to be denied a job. It seems intuitive that a government can terminate attempts to stop people from working, but also that the same government ought not be obligated to guarantee someone a job. This simple distinction is not as clear as it may seem.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.72-3.

An act which is positive in its nature may be characterized by a negative expression: thus, not to be at rest, is as much as to say to move. So also an act, which is negative in its nature, may be characterized by positive expression: thus, to forbear or omit to bring food to a person in certain circumstances, is signified by the single and positive action to starve.

There are many more examples of actions that can be either positive or negative; suggesting that the distinction is arbitrary. When people argue that only negative rights are justified, you can use this analysis to suggest that the designation of something as a negative or positive right is unsound. The starving example is nice, but there are many other examples of positive rights that are justified (or only questionably positive in nature). The example of this is the right to a fair trial. It is difficult to argue that this right is illegitimate. It is also dangerous to argue that the government only has a role in preventing unfair trials. Instead, this right is traditionally understood as the obligation of government to provide a fair trial. The right to a fair trial is useful as an example of a positive right (that is, a right to government provision) that is difficult to dismiss and, thus, the distinction may be a dangerous one to which to attach value judgments.

Another difficult section of actions to classify is the expressive actions of speech. Many actions are classified as internal or external. The more familiar form of this distinction is the idea of internal versus external freedom. Internal freedom consists of the ability of the individual to make autonomous decisions. External freedoms consist of actions which can affect the interests of other people. This distinction is the basis for all of Mill's harm principle and many other theories of rights. Bentham suggests that expression is a difficult type of action to classify as internal or external since it includes aspects of each type of action.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.73.

Acts of discourse are a sort of mixture of the two: external acts, which are no ways material, nor attended with any consequences, any farther than as they serve to express the existence of internal ones. To speak to another to strike, to write to him to strike, to make signs to strike, are all so many acts of discourse.

The classification of an act as internal, in the utilitarian tradition, carries with it the implication that the act does not impact the utility of other people. This suggests that internal acts are not subject to utilitarian limitation. Arguing that discourse has external aspects is to suggest that some discourse is reachable by utilitarian legislation.

The designation of an act as external; thus open for utilitarian analysis, is only the beginning of the moral decision. The moral decision must proceed to assess the tendency of any action to produce happiness. This analysis must encompass an understanding of the circumstances of any action.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.76.

[W]e come now to speak of the circumstances with which they may have been accompanied. These must necessarily be taken into the account before any thing can be determined relative the consequences. What the consequences of an act may be upon the whole can never otherwise be ascertained: it can never be known whether it be beneficial, or indifferent, or mischievous. In some circumstances even to kill a man may be a beneficial act: in others, to set food before him may be a pernicious one.

At this point, Bentham diverges from Kant in a substantial way. Bentham suggests that moral decisions are circumstantial to the extent that circumstances play a large role in the determination of the effects of an action. In this way, the moral action may be different depending upon the circumstances the actions. Some acts are perfectly moral in some circumstances, but not moral in others. Killing may be justified in circumstances of self-defense, but not justified in cases of robbery. Rule based theories often forbid the inclusion of circumstances in the analysis of moral decisions because circumstantial evidence makes a decision non-universal. Non-circumstantial theories suggest that the individual agent should not be held responsible for external circumstances. These theories attach responsibilities only to intents; not outcomes. Bentham recognizes the nature of responsibility and incorporates this into a complicated description of human action.

Bentham distinguishes the intentional part of an outcome from the unintended consequences. The unintended consequences of any action are not considered, by Bentham, to be morally responsible actions. The unintended consequences of any action are actually caused by the circumstances; not by the moral agent. Therefore, the individual is not responsible for the consequences of the environment.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.83.

But the consequences of an act cannot be intentional, without the act's being itself intentional in at least the first stage. If the act be not intentional in the first stage, it is no act of yours: there is accordingly no intention on your part to produce the consequences: that is to say, the individual consequences.

This seems to address many of the questions pertaining to the limits of rational agency, but other types of questions are left unanswered. How far do I have to go in considering the possibility of unwanted consequences? If I act rashly, without considering the fact that my actions may have unintended circumstances, am I morally culpable for not considering the possible negative impacts? What moral obligations exist to encourage us to think about the circumstances of an action in order to limit the frequency of unintended harms?

Bentham ties this theory of intentions into his larger utilitarian theory.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.87-8.

Strictly speaking, nothing can be said to be good or bad, but either in itself; which is the case only with pain and pleasure or on account of its effects; which is the case only with things that are on the causes or preventatives of pain and pleasure. But in a figurative and less proper way of speech, a thing may also be styled good or bad, in consideration of its causes. Now the effects of an intention to do such an act, are the same objects which we have been speaking of under the appellation of its consequences.

Notice the similarities between this statement and some of the quotes of Kant on the value of a good will. Bentham suggests that the only inherent good is happiness. Kant posits that the only inherent good is good will. This difference in opinion is central to the full elaboration of these theories. These two suppositions of inherent worth should set off signals in your head as a debater. Inherent worth is usually a writer's excuse for not explaining why an object has worth.

The attribution of circumstantial intention as the basis of individual moral responsibility invites knowledge into the moral relationship.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.88.

Acts, with their consequences, are objects of the will as well as of the understanding: circumstances, as such, are objects of the understanding only. All he can do with these, as such, is to know or not conscious. To the title of Consciousness belongs what is to be said of the goodness or badness of a man's intention, as resulting from the consequences of the act: and to the head of Motives, what is to be said of his intentions, as resulting from the motive.

Unconsciousness is the process of acting without knowledge of the determining factors of the consequences of your actions. For instance, if you are considering the morality of shooting a crossbow, you might not consider the implications of being in space when you shoot that crossbow. If you shoot the crossbow, not realizing the backlash that it will create, you might accidentally knock over a vial containing the cure for cancer. This would not be your fault because the backlash was not a part of your conscious will. Still, the questions arise when lawmakers are coercing individual decisions. How much information is an individual responsible to research? How can a state know if the actions of an individual are intentional?

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.96.

In almost all cases, the absence of intention with regard to certain consequences, and the absence of consciousness, or the presence of mis-supposal, with regard to certain circumstances, will constitute so many grounds of extenuation.

The possibility of confounding circumstances creates extenuating circumstances and reinforces the previously mentioned intuitive nature of Bentham's argument. He builds these extenuating circumstances into his theory of moral action. Then, he develops these extenuating circumstances into a complete argument on how utilitarian theory can explain our notions of extenuation that we tend to use to resist inflexible rule based paradigms.

The analysis of intentions allows for more expansive social regulation. The establishment of malicious intent reveals a predisposition toward future actions which may harm overall social utility. This predisposition to cause harm, or potential danger, creates a need for punishment and penal law.

In a utilitarian theory, no actions have moral worth except by their consequences; so you can not say that any action is demanded by historical circumstances. All actions must be justified based upon the future consequences of the possible action. If punishment did nothing else but harm a criminal, it would be immoral as a loss of utility without offsetting gain. A penal code exists to prevent future crime, or address previous utility losses (through compensation rather than retribution). This answers the fundamental philosophical question of punishment: Why is it justified to do something to a criminal that it is not justified to do to an innocent (a circumstantial designation)? The answer is: Punishment is justified insofar as it augments future aggregate utility; no more, no less.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.170.

The general object which all laws have, or ought to have, in common, is to augment the total happiness of the community; and therefore, in the first place, to exclude, as far as may be, everything that tends to subtracts from that happiness: in other words to exclude mischief. But all punishment is mischief: all punishment in itself is evil. Upon the principle of utility, if all to be admitted, it ought only to be admitted in as far as it promotes to exclude some greater evil.

This extends the attacks on rule based systems like Kant's, to the extreme. Innocence is a circumstantial characteristic insofar as the object of an action is independent of the moral analysis of the action itself. Inherent worth theories that exclude the justification of actions by their effects, or the object of the action, create a real dilemma. When is causing pain ever justified if we can not differentiate between innocent and guilty persons? If we can define the circumstantial innocence of a person, why can we not include extenuating circumstances of the subject? If we allow circumstantial evidence, the entire point of inherent analysis breaks down.

Bentham moves on to classify the types of crimes which justify punishment. The first group that does not deserve punishment includes self-regarding action. Punishment won't make anyone happier when regulating self-regarding actions; therefore, regulation of it is not justified.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.171.

Cases in which punishment is groundless. These are, I. Where there has never been any mischief: where no mischief has been produced to any body by the act in question. Of this number are those in which the act was such as might, on some occasions, be mischievous or disagreeable, but the person whose interests it concerns gave his consent to the performance of it. This consent, provided it be free, and fairly obtained, is the best proof that can be produced, that, to the person who gives it, no mischief, at least no immediate mischief, upon the whole, is done. For no man can be so good a judge as the man himself, what it is gives him pleasure or displeasure.

Bentham had the opportunity to go either way on this issue. Take, for example, the case of drug abuse. Some cases of drug abuse harm no one but the person who is taking the drugs. A utilitarian can argue to either regulate it or to not regulate it. Bentham's argument is that the self-affecting nature of the act (drug abuse) does not justify any punishment because it does not stop any unhappiness. Another way to interpret the case of drug abuse would be to say that the punishment of the single individual will stop other individuals from taking drugs by their example. In the end, the happiness generated by stigmatizing a drug user may outweigh the unhappiness caused by punishment. Why did Bentham choose the former strategy? Mill takes it farther to serve as the basis for his essay ON LIBERTY.

Another act which does not justify punishment is an act which creates more happiness than unhappiness. This may be the case with a person who is charged with battery after they try to help a choking person by applying the heimlich maneuver (yes, this has actually happened). Bentham would suggest that the act of saving a choking person generated more happiness than the harm to that person's chest (from the misapplied heimlich) caused unhappiness. Some would suggest that the ignorance of this principle is part of the problem with tort law as conceived in the US legal system now. You can sue for any harm, but it is hard to prove countervailing benefits.

The argument for countervailing effect can lead to some strange circumstances. In medical malpractice, a person can not sue a doctor whose procedure created a benefit (even if there are questions about the informed consent of the patient). The reasoning behind the decision is that, if the procedure is the only way a benefit could be produced, and that benefit is greater than the harm of the procedure, then the patient has no room to complain. This is strange derivation of an argument that so closely follows the principle of self-regarding action. That earlier principle was based upon the argument that the individual best knows their own happiness. This principle is based on the presumption of the doctor's preeminent understanding. This is an example of how some transformations create outcomes that are contradictory to their fundamental premises.

A final case where punishment is inappropriate is where compensation has taken place.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.172.

[Punishment is groundless] 3. Where there is a certainty of an adequate compensation : and that in all cases where the offense can be committed. This supposes two things: 1. That the offense is such as admits of an adequate compensation: 2. That such a compensation is sure to be forthcoming.

Compensation involves many conceptual problems for political theorists. Robert Nozick asked: If I gave you a signed blank check, would it be justified to say that I will break your leg sometime today? This week? This year? Sometime in your lifetime? Nozick argues that the threat is completely unable to be outweighed by monetary compensation. If threats of force can never be compensated, because the threat itself causes immeasurable psychological harm, when is compensation possible (maybe only in reparation for damage of property)? Finally, how much compensation is sufficient to make punishment inappropriate?

Next, Bentham looks to cases where punishment is not effective. The previous rules held in cases where there was no net loss to happiness. These cases will assume that there was some harm. But, in which cases of harm is punishment inappropriate?

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.172-3.

Cases in which punishment must be inefficacious. I. Where the penal provision is not established until after the act is done. Such are the cases, 1. Of an ex post facto law; where the legislator himself appoints not a punishment till after the act is done. 2. Of a sentence beyond the law; where the judge, of his own authority, appoints a punishment which the legislator had not appointed.

These requirements stem from the fact that, in a utilitarian system, punishment is only justified as a deterrent or as an attempt at reparation. In the cases of ex post facto law, there was no law in effect to create an expectation of criminality. Bentham argues that the lack of knowledge about the law would nullify the value of the punishment. Consider an alternative application of the utility principle which can justify ex post facto punishment. I could argue that a very public punishment, based on ex post facto laws, would create obedience not only to the newly applied law but also to the system overall by creating fear. Does this maximize aggregate utility?

Another case where punishment is ineffective is in the regulation of unintentional acts. If an act is completely unintentional, then a zealous regard for the law can still produce these effects because they are outside of the conscious will.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.174.

[Punishment is ineffective] 4. Where the penal provision (although, being conveyed to the party's notice, it might very well prevent his engaging in acts of the sort in question, provided he knew that it related to those acts) could not have engaged in: to wit, because he knows not that it is of the number of those to which the penal provision relates. This may happen, 1. In the case of unintentionally; where he intends not to engage, and thereby knows not that he is about to engage, in the act in which eventually he is about to engage.

This may seem kind of strange; why should we care about unintentional acts? The fact is that we do punish these acts everyday under the heading of involuntary manslaughter. These cases hold where negligence (lack of intentionally) kills. I would argue that, in some cases, punishment is appropriate where there is no intent because the actor negligently did not consider the consequences. Unfortunately, I have to revert back to a legal test I despise to serve as a test for this. The only appropriate test I can imagine appropriate to the designation of negligent unintentionality would be a reasonable person test. Would a reasonable person consider the risks of this act? The root problem is that I honestly question the idea that a person who does not consider the consequences should be innocent of any culpability for those consequences.

Now, Bentham turns to cases where punishment is not needed. This recognizes that punishment inherently causes pain and, in some cases, alternative approaches may exist to create the same deterrent effect.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.177.

Cases where punishment is needless. These are 1. Where the purpose of putting an end to a social practice may be attained as effectually at a cheaper rate: by instruction, for instance, as well as by terror: by informing the understanding, as well as by exercising an immediate influence on the will.

This has been a hotly contested notion during the "war on drugs". Is the best approach to fight drug abuse, especially among children, to educate, or to punish? Bentham argues that, where non-intrusive forms of social control can be used to create a deterrent, these should be preferred over punishment. This seems to be an appealing argument on many levels. We recognize that punishment is a necessary evil; we should only use terror when needed. Furthermore, terror is probably not the best way to control society.

The utilitarian basis for punishment does create some conditions that are counter-intuitive to our American legal system. If the effect of the punishment creates more unhappiness than the effect that a single punishment would have on deterrence, then the punishment is not justified.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.198.

The effects of unpopularity in a mode of punishment are analogous to those of unfrugality. The unnecessary pain which denominates a punishment unfrugal, is most apt to be that which is produced on the part of the offender. A portion of superfluous pain is in like manner produced when the punishment is unpopular: but in this case it is produced on the part of persons altogether innocent, the people are large. This is already one mischief; another is, the weakness which it is apt to introduce into law. When the people are satisfied with the law, they voluntarily lend their assistance in the execution: when they are dissatisfied, they will naturally withhold that assistance; it is well if they do not take a positive part in raising impediments. This contributes greatly to the uncertainty of the punishment; by which, in the first instance, the frequency of the offense receives an increase.

This seems very timely in the American legal system. The Rodney King verdict created more unhappiness than it acted as a deterrent for police brutality (you can even say that it reinforced police brutality). We usually talk about justice being achieved in spite of popular opinion. Is justice achieved if a case creates more social animosity than it deters crime?

Once Bentham concludes his review of the cases where punishment is inappropriate, he moves on to consider the classification of offenses that do deserve punishment. Bentham begins with a stunning separation between positive penal law and moral penal law. He suggests that there is a difference between the classification of punishments, as they currently exist, and the ideal set of punishments. In essence, he argues that penal laws not based upon the good of the community are not morally legitimate (but, are they binding?).

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.204-5.

It is necessary, at the outset, to make a distinction between such acts as are or may be, and such as ought to be offenses. Any act maybe an offense, which they whom the community are in the habit of obeying shall be pleased to make one: that is, any act which they shall be pleased to prohibit or punish. But, upon the principle of utility, such acts alone ought to be made offenses, as the good of the community requires should be made so.

This creates an external justification and test for all penal law. Bentham does not refer to the existence of a positive law as the sole grounds of that law's legitimacy. Instead, he looks to an external standard: happiness. In this case some laws may be unjustified because they are without warrant; they do not actually protect the community.

The idea of community good opens up the possibility that no single individual is harmed. However, an unassignable groups of individuals can be harmed. This allows for the regulation of victimless crimes where there is social harm no definite individual interest is harmed. This may apply in cases, as mentioned above, of drug abuse or pornography. It may also apply to group harms in the limitation of hate speech. The harm to racial groups (or any other type of group that can be attacked with hate speech) may not include a definite individual, but it does real harm to the group.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.206.

When it appears, in general, that there are persons to whom the act in question may be detrimental, but such persons cannot be individually assigned, the circle within which it appears that they may be found, is either of less extent than that which comprises the whole community, or not. If of less, the person comprised within the lesser circle may be considered for this purpose as comprising a body of themselves; comprised within, but distinguishable from, the greater body of the whole community. The circumstances that constitute the union between the members of this lesser body, may be either their residence within a particular place, or, in short, any other less explicit principle of union, which may serve to distinguish them from the remaining members of the community. If the first case, the act may be styled an offence against a neighborhood: in the second, an offence against a particular class of persons in the community. Offences, then, against a class or neighborhood may together constitute a 2nd class of offences.

An attack on a class of persons comprises a new class of offense because it is not private, not between individuals, but is not effecting the entire society. This offense falls between the publicness of a social harm and the implication of harming an single individual.

Following the offenses all the way to the top uncovers the largest class of offenses: offenses against the entire community. These are the acts that are most likely to require harsh punishment and are, on an order of magnitude, on a larger scale than individual harms.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.207.

The fourth class may be composed of such acts as ought to be made offences, on account of the distant mischief which they threaten to bring upon an unassignable indefinite multitude of the whole number of individuals, of which the community is composed: although no particular individual should appear more likely to be a sufferer by them than another. These may be called public offences, of offences against the state.

Most harms can be assigned to particular individuals, but the unassignable harms are important in this discussion of our moral responsibility to protect the environment. If I choose to poison a river no one else uses, then there is no one currently alive that is affected by my decision. Bentham argues that the state can claim that the harm is to undefined people, such as future generations, and they punish on their behalf. Hence, Bentham's system allows for underrepresented people to assert claims; a possibility absent from many rule based systems prior to Rawls.

Private Ethics

Bentham wraps up his book with a discussion of the limits to penal law and the legislative attempts to create utility by punishing. He argues that personal effects (that is completely internal acts) are part of private ethics and, thus, not open for legislation.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.310.

Ethics at large may be defined, the art of directing men's actions to the production of the greatest possible quantity of happiness, on the part of those whose interests is in view.

Which actions do we have the power to direct? They must be either his own actions, or those of other agents. Ethics, as far as it is the art of directing a man's own actions, may be styled as the art of self-government (or private ethics).

Bentham has worked very hard to not separate the principles which regulate the actions of individuals from those that regulate legislators enacting coercive laws. In that he sees no separation of principles, he assigns ethics to regulate both. The only separation is that internal actions can exemplify different principles derived from the extra information an individual can possess about themselves. To accommodate this, Bentham suggests the term private ethics.

The second aspect of ethics is, therefore, public ethics.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.310-1.

As to other human beings, the art of directing their actions to the above end is what we mean, or at least the only thing which, upon the principle of utility, we ought to mean, by the art of government: which, is as far as the measure it distinguishes by the name of legislation: as it is by that of administration, when they are of a temporary nature, determined by the occurrences of the day.

The only relevant difference between private ethics and legislation is the likelihood that some forms of action are less pain inducing than others. Sometimes individual moral action is more efficient than legislative action. These two forms of ethics are still regulated by the same final goal: the happiness of all human beings.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.313.

Now the private ethics has happiness for its end: and legislation can have no other. Private ethics concerns every member, that is, the happiness and the actions of every member, of any community that can be proposed; and legislation can concern no more. Thus far, then, private ethics can with the art of legislation go hand in hand. The end they have, or ought to have, in view, is of the same nature. The persons whose conduct they ought to be occupied in directing, are precisely the same. The very acts they ought to be conversant about, are even in a great measure the same.

There are some differences which Bentham does acknowledge.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.313-4.

There is no case in which a private man ought not to direct his own conduct to the production of his own happiness, and of that of his fellow creatures: but there are cases in which the legislator ought not (in a direct way at least, and by means of punishment applied immediately to a particular individual act) to attempt to direct the conduct of the several other members of the community. Every act which promises to be beneficial upon the whole to the community (himself included) each individual ought to perform himself: but it is not every such act that the legislator ought to compel him to perform. Every act which promises to be pernicious upon the whole community (himself included) each individual ought to abstain from of himself: but it is not every such act that the legislator ought to compel him to abstain from.

The cases where legislation is not appropriate are best described (as those discussed earlier) in this way: groundless, inefficient, and needless. These create a line between illegitimate private action and legitimate private action; he sums up these principles below.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.314.

Where then is the line drawn? -- We shall not have far to seek it. The business is to give an idea of the cases in which ethics ought, and in which legislation ought not (in a direct matter at least) to interfere. If legislation interferes in a direct manner, it must be by punishment. Now the cases in which punishment, meaning the punishment of the political sanction, ought not to be inflicted, have been already stated. If then there be any of these cases in which, although legislation ought not, private ethics does or ought to interfere, these cases will serve to point out the limits between the two arts or branches of science. These cases, it may be remembered, are of four sorts: 1. Where punishment would be groundless. 2. Where it would be inefficacious. 3. Where it would be unprofitable. 4. Where it would be needless.

These limits upon governmental punishing authority are very broad and leave a lot of room for interpretation. Who should decide when punishment is groundless? The authority to decide what is groundless ends up defining the legitimate use of power; if the government decides for itself what is groundless, then this is not much of a limitation. If the citizens of a state decide this issue, who arbitrates the dispute? This issue pervades political philosophy and pervades Bentham's moral theory at the point that he takes up political arguments.

Even with these limitations, there are some lessons to be learned from the separation of private and public ethics. The primary lesson is the possibility that people know best their own happiness and, at times, sweeping general legislation is not appropriate. This theme is taken up by Mill in *ON LIBERTY*.

Bentham, Jeremy. *THE PRINCIPLES OF MORALS AND LEGISLATION*. Prometheus Books. Amherst. 1988. Pg.319.

Of the rules of moral duty, those which seem to stand least in need of the assistance of legislation are the rules of prudence. It can only be through some defect on the part of the understanding, if a man be ever deficient in point of duty to himself. If he does wrong, there is nothing else that it can be owing to but either some inadvertence or some mis-supposal with regard to the circumstances on which his happiness depends. It is a standing topic of complaint, that a man knows too little of himself. Be it so: but is it so certain that the legislator must know more? It is plain, that of individuals the legislators can know nothing: concerning those points of conduct which depends upon the particular circumstances of each individual, it is plain, therefore that he can determine nothing to advantage.

Is this argument still true? A product of social advancement is social specialization. A chemist knows many things about pharmaceuticals that a mechanic may not know, but the mechanic knows how to fix cars. The two people, without knowing the same things, can share skills and gain productivity by the exchange. This eventually leads to the centralization of information in the hands of a small niche in society. Can you tell if a chemical was dangerous to you? Probably not without the help of a toxicologist; that is why we have the FDA. The centralization of knowledge and the authority to decide what is dangerous is antithetical to Bentham's basic premise that the individual knows best. Given the example of the FDA, do you think it is still true that legislators know less about people than people know about themselves?

The development of the specialized society, as a mechanism to protect individual property rights, is an example of such a process. At some point, the costs required to prohibit individuals from stealing your property were lowered by designating a certain group of people as police and agents of the state. The creation of the state and the protection of property rights were preconditions to a stable condition of individual privacy and private morality.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.322.

Legislation must first determine what things are to be regarded as each man's property, before the general rules of ethics, on this head, can have any particular application. The case is the same with regard to offences against the state. Without legislation there would be no such thing as a state: no particular persons invested with powers to be exercised for the benefit of the rest. It is plain, therefore, that in the this branch the interference of the legislator cannot any where be dispensed with. We must first know what are the dictates of legislation, before we can know what are the dictates of private ethics.

The assignment of duties to a legislative body creates a distinction between private and public realms. Bentham recognizes that, before a section of activity can be designated private, it must first be designated such by the legislature. Just as in many theories of rights, this answers the question of who designates the legitimate zone of privacy. The legislature must define privacy, just as in some rights theories the government must define rights. If individuals define their own zones of privacy, chaos may ensue. At the same time, how safe is it to leave the definition of privacy to the government?

As a moral theory, Bentham addresses only the theoretical possibility of a legislature defining zones of privacy. A moral government would leave some areas of personal conduct to individual privacy.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.322.

As to the rules of beneficence, these, as far as concerns matters of detail, must necessarily be abandoned in great measure to the jurisdiction of private ethics. In many cases the beneficial quality of the act depends essentially upon the disposition of the agent; that is, upon the motives by which he appears to have been prompted to perform it: upon their belonging to the head of sympathy, love of amity, or love of reputation; and not to nay head of self-regarding motives, brought into play by the force of political constraint: in a word, upon their being such as denominate his conduct free and voluntary, according to one of the many senses of given to those ambiguous expressions.

Beneficence must be left to personal choice because the good of the action is derived mostly from the will to do good. The real benefit from walking an old lady across the street is in the desire to help and the incumbent effect that desire creates in helping maximize happiness. When the benefit of the act is not dependent upon free will, this act may be left to the legislative. For instance, the good of feeding the hungry is in alleviating hunger; I do not think that the perception of caring creates all that much additional benefit (but, then again, I may be a cynic.)

The requirement of a division of labor between legislation and private ethics changes only the venue of the moral choice; not the content of the moral rules that govern. In this unity of moral rules, Bentham has achieved his goal of creating a united system of rules for legislation and morality.

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988. Pg.323.

Private ethics teaches how each man may dispose himself to pursue the course most conducive to his own happiness, by means of such motives as offer themselves: the art of legislation (which may be considered as one branch of the science of jurisprudence) teaches how a multitude of men composing a community, may be disposed to pursue that course which upon the whole is most conducive to the happiness of the whole community, by means of motives conducive to the happiness of the whole community, by means of motives to be applied by the legislator.

This theory can be applied well in circumstances where both personal morality and legislative action must be considered. The unity of the moral theory allows for both types of action to be considered under one criterion, instead of having to argue that different standards apply in different instances.

Hopefully, you can now see the instances where the theory of utility is useful in LD. It caters to some intuitive ideas of morality. We are morally obligated to refrain from causing harm. This obligation extends to all people that may be affected; not just to some classes of people described as having certain rights. Finally, all people are considered equal in their claim to happiness; this status is not dependent upon some rights theory which can be captured and used to create social distinctions. The values of happiness and equality are easily supported through this theory, and can be applied in many instances where rights theories seem inappropriate to deal with the issues posed by a resolution.

Discussion Questions

1. How easy is it to calculate the utility of a proposed action?
2. Are there any actions that should be absolutely prohibited?
3. How can you tell whether a decision is private?

Resolutions

1. Resolved: that capital punishment is justified.
2. Resolved: that a criminal justice system ought to value retribution about rehabilitation.
3. Resolved: that economic sanctions are morally justified as a tool of foreign policy.

MILL'S THEORY OF UTILITY

John Stuart Mill builds upon the theory presented by Bentham in order to develop a more persuasive and accessible framework of morality. Mill's father was a contemporary of Bentham and was devoted to the principle of utility. Accordingly, he raised his son to practice the concepts that Bentham elaborated and hoped that John Stuart would become the great defender of utility for the years to come. John Stuart Mill's essay "Utilitarianism" would become the most persuasive statement of the principle of utilitarian morality for many years.

Foundations of Millian Utilitarianism

Mill spends much of his book rebuilding and clarifying the arguments already defended by Bentham. Mill's work, therefore, serves as a clarification of Bentham's principle of utility more than it serves as a unique and new philosophy. Mill is a notoriously strong writer of persuasive arguments, the philosopher's version of sound bites, and these can serve to soften the explanation of utilitarianism. He begins with a description of his theory of human action.

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.138.

All action is for the sake of end, and rules of action, it seems natural to suppose, must take their whole character and colour from the end to which they are subservient.

Does this seem natural? What are the alternative conceptions of moral action? Kant may more or less agree with this statement, in that the purpose of morality is to evaluate the moral maxims that one generates by actions (generated by acting upon some end). On the other hand, Kant argues that the moral action must accommodate consistent means to whatever moral end one may pursue. The argument that an action derives its "whole" moral worth from the end is controversial even if most would agree that some part of the moral worth is derived from the ends that are sought.

The differences between moral theories in LD are not what they are often assumed to be. The common argument is that the difference between Kant and utilitarianism is that Kant suggests that morality is derived from intent and utility derives the morality from the ends. This is not a real distinction. Kant does look at the ends of the action (not the effect, but the end that someone is trying to achieve) and so, too, does the principle of utility look to the intent of action. The difference is from where the two systems of morality draw information in order to evaluate the morality of an action.

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.139.

According to the one opinion, the principles of morals are evident a priori, requiring nothing to command assent, except that the meaning of the terms be understood. According to the other doctrine, right and wrong, as well as truth and falsehood, are questions of observation and experience. But principles hold equally that morality must be deducted from principles; and the intuitive style as well as the inductive, that there is a science of morals.

Part of Mill's argument suggests that moral descriptions are similar to descriptions of truth and falsehood. Are these really comparable? Do we think of actions describable as moral in the same way we say that the sky is blue? If we reject the idea that morality is a quality that can be objectively identified in the same manner as color, then we reject the idea (of both Kant and Mill) that morality is a science.

The difference between these two schools of morality is the process through which actions are evaluated. Mill describes the deontological school (particularly the works of Kant) as intuitive. This suggests that an individual acting within this system looks to internal feelings to determine the morality of an action. This seems to be a fair description of Kant's moral theory. The pursuit of a priori reasoning is an internal process which rejects all attempts to refer to the outside world of history to establish morality. This may (more neutrally) be described as deductive. Kant's moral theory presents some rules of internal decision making and then argues that individuals should derive each moral action from the rules. This is the deontological aspect of Kant's moral theory. Mill rejects the ability of a moral theory to clearly define these internal rules in any non-arbitrary way.

Mill, John Stuart. "Utilitarianism". In *ON LIBERTY AND UTILITARIANISM*. Reprinted by Bantam Books. New York. 1993. Pg.139.

Yet they seldom attempt to make out a list of the a priori principles which are to serve as the premises of the science; still more rarely do they make an effort to reduce those various principles to one first principle, or common ground of obligation. They either assume the ordinary precepts of morals as of a priori authority, or they lay down as the common groundwork of those maxims, some generality much less obviously authoritative than the maxims themselves, and which has never succeeded in gaining popular acceptance.

This is a particular problem with the history of deontological theories in LD. Many people take the moral conclusion (i.e. the third formulation of Kant's categorical imperative) itself to be the source of the moral rule. The use of these moral rules substantiates Mill's case that the products of the reasoning are about as well supported as a priori as are the so called a priori rules themselves. These rules seem to be little more than an assertion of feelings, rather than the objective thought process it is characterized to be.

The argument in this quote is what Mill sees as a lack of intellectual rigor in the development of these a priori rules. He suggests that there lies, behind all of these rules, a common ground that can be said to be the largest and most profound rule of all. Any guess as to what that is? Even within the rules based moral systems, actions are generally weighed based upon their ends.

Mill, John Stuart. "Utilitarianism". In *ON LIBERTY AND UTILITARIANISM*. Reprinted by Bantam Books. New York. 1993. Pg.140.

Although the non-existence of an acknowledged first principle has made ethics not so much a guide as a consecration of men's actual sentiments, still, greatly influenced by what they suppose to be the effects of things upon their happiness, the principle of utility, or as Bentham latterly called it, the greatest-happiness principle, has had a large share of in forming the moral doctrines even those who most scornfully reject its authority.

Mill attacks the classification of theories as rule based or ends based (a classification I have used in separating the books in this series). Kant sees his moral theory as rule centered, remaining cognizant of the ends that serve as moral maxims. Mill argues that the principle of utility serves as a basis for adopting rules that are centered upon the ends of an action. Clearly, the distinction between these developed theories is not so clear as to call one rules based and the other ends based. The lines between the two are blurry. Is it possible, though, to suggest (as I have above) that the two theories are focused on different aspects and this serves as a basis of differentiation and categorization?

Before getting too deep into his own theory, Mill capitalizes on the young philosopher's advantage of being able to criticize the work of a dead philosopher by name.

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.140.

It is not my purpose to criticize these thinkers; but I cannot help referring, for illustration, to a systematic treatise by one of the most illustrious of them, the *Metaphysics of Ethics*, by Kant. This remarkable man, whose system of thought will long remain one of the landmarks in the history of philosophical speculation, does, in the treatise in question, lay down a universal first principle as the origin and ground of moral obligation; it is thus: 'So act, that the rule on which thou attest would admit of being adopted as a law by all rational beings.' But when he begins to deduce from this precept any of the actual duties of morality, he fails, almost grotesquely, to show that there would be any contradiction, any logical (not to say physical) impossibility, in the adoption by all rational beings of the most outrageously immoral rules of conduct. All he shows is that the consequences of their universal adoption would be such as no one would choose to incur.

Mill sees Kant's moral theory as dangerously misleading. Consider his major question. Would the fact that a person believes that all rational people would accept an action guarantee a moral action? It really depends on how far you generalize it. If we can exclude some people from the calculus of consideration, by saying they are not rational or not deserving of rationality, we can universally will almost anything.

A recent book stirred a lot of attention when the author suggested that many civilian Germans in World War II were complicitous in the Holocaust because they saw it as natural for the "superior" race to fight against the others (a superior race which could easily rationalize to itself that they were the only people deserving of moral protection). In a way, they thought the will to destroy their races' opponents was, in fact, a fairly general feeling that many people acted upon. This is a telling example of the nature of moral acquiescence in a group setting.

Mill is deeply suspicious that a species of rational beings who rationalized slavery for so long could be trusted to universalize their thought. At the same time, the biases that allow individuals to misapply universality can also be used to corrupt utility. Just as a person can decide that a race or an ethnic group may not deserve to be part of the universal will, they could also decide that this group of people is not deserving of utility protection. A racist would discount the utility of a person from a racial minority; the same bias that endangers rule based systems also threatens utility based systems. All that can be taken from this discussion is that biased people are likely to bias any decision making system and that we can probably not rely upon group process (such as universalization) to solve the problem.

Mill returns to his major goal by defining what the utilitarian theory actually encompasses.

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.144.

The creed which accepts as the foundation of morals, Utility, or the Greatest Happiness Principle, holds that actions are right in proportion as they tend to promote happiness, wrong as they tend to produce the reverse of happiness. By happiness is intended pleasure, and the absence of pain; by unhappiness, pain, and the privation of pleasure.

The major theoretical problem with utility theories, in all of their forms, is the definition of pleasure. It seems to be the most subjective concept on the planet. Each person's pleasure is entirely dependent upon the context, expectation, and nature of that person. Because this is such a difficult concept to define, it is often problematic to defend. Should I not take an action because someone may be offended, even if everyone else thinks the action is normal? Should I not fail someone on a test if their reaction is more painful than the social pleasure generated by the honesty of that particular grade? The vagaries of utility plague all utilitarian theories. The million dollar question is whether these vagaries are larger than the vagaries of the rules based system (and their arbitrary first principles).

Mill does specify some of what makes up "good" uses of happiness.

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.145.

Human beings have faculties more elevated than the animal appetites, and when once made conscious of them, so not regard anything as happiness which does not include their gratification.

What are these pleasures? Mill is addressing the happiness that comes from a good debate or a good book. These intellectual forms of happiness are, in Mill's theory, the natural end for all educated people. He sees no real pleasure to be gained by transient pleasures of alcohol, or the like, if a person has experienced the intellectual pleasures that are available. Is this realistic? Will people naturally give up alcohol and drugs of all kinds, if they were simply educated?

This categorization of utility is compatible with Mill's theory of morality in that he would argue that the promotion of some types of utility, rather than other forms of transient pleasure, is moral. It may be moral, by utilitarian standards, to forbid drinking for the reason that people who give up the pleasure of drinking may begin to enjoy better forms of pleasure.

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.146.

It is quite compatible with the principle of utility to recognize the fact, that some kinds of pleasure are more desirable and more valuable than others. It would be absurd that while, in estimating all other things, quality is considered as well as quantity, the estimation of pleasures should be supposed to depend on quantity alone.

The creation of these classifications of happiness creates some theoretical problems. First, if pleasures are separable into good pleasures and bad pleasures, then there must be a standard for happiness to make this designation. This violates the assumption of the primacy of the principle of utility. Second, the prioritization of some forms of pleasure suggests that happiness is inherently subjective in that people have two different levels of utility to consider: quantity and quality. Finally, the history of human civilization suggests that some forms of these lower pleasures always stick around. The educated elite of the Victorian era had their opium; the elite today have their cocaine, etc. While some people surely reject the use of these forms of transient pleasure, they seem endemic to society.

Mill offers a simple test to differentiate between higher and lower forms of pleasure.

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.146.

If I am asked, what I mean by difference of quality and pleasures, or what makes one pleasure more valuable than another, merely as a pleasure, except its being greater in amount, there is but possible answer. Of two pleasures, if there be one to which all or almost all who have experience of both give a decided preference, irrespective of any feeling of moral obligation to prefer it, that is the more desirable pleasure.

Let me rephrase this. If you can will that all people will prefer one pleasure over another, having experienced both, it is a more valuable pleasure. Does this sound familiar? This introduces the problems of universality, as a basis of moral argument, into the definition of pleasure itself. This aside, Mill pulls the concept of pleasure into a full statement of the principle of utility.

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.150.

According to the Greatest Happiness Principle, as above explained, the ultimate end, with reference to and for the sake of which all others things are desirable (whether we are considering our own good or that of other people), is an existence exempt as far as possible from pain, and as rich as possible in enjoyments, both in point of quantity and quality; the test of quality, and the rule of measuring it against quantity being the preference felt by those who, in their opportunities of experience, to which must be added, their habits of self-consciousness and self-observation, are best furnished with the means of comparison. This, being, according to the utilitarian opinion, the end of human action, is necessarily also the standard of morality; which may accordingly be defined, the rules and precepts for human conduct, by the observance of which an existence such has been described might be, to the greatest extent possible, secured to all mankind; and not to them only, but so far as the nature of things admits, to the whole sentient creation.

Notice that Mill refers to an existence without a designation regarding whose existence ought to be regarded. From a theoretical standpoint, this may be because the theory of utility does not differentiate between any people's utility. One way to act to maximize the utility of the most number of people is in the maximization of the system of utility (or the society as a whole). Some reject utility for this reason. The principle of utility accepts the pleasure of one person as interchangeable with the pleasures of a separate person. The equality inherent in this interchange also fails to recognize the moral distinctness of each individual, at which point an individual has no unique value or claim against the other people in society. The interchangeability of utility creates moral requirements of self-sacrifice.

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.154.

Though it is only in a very imperfect state of the world's arrangements that any one can best serve the happiness of others by the absolute sacrifice of his own, yet so long as the world is in that perfect state, I fully acknowledge that the readiness to make such a sacrifice is the highest virtue which can be found in man.

How much weight do you give to a moral theory that places self-sacrifice as the highest virtue? At some point, you have to ask the fundamental question of moral philosophy: is morality made for people or are people made for morality? It may be difficult to reconcile the self-sacrificial morality of pure utility with a form of morality that is created for people; the very people it suggests may have to be killed.

Utility is not a purely altruistic philosophy. The action of self-sacrifice is only moral insofar as it helps maximize utility. Mill does not suggest that the sacrifice of self (and the loss of utility inherent in sacrifice) is a moral action in itself.

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.154.

The utilitarian morality does recognize in human beings the power of sacrificing their own greatest good for the good of others. It only refuses to admit that the sacrifice is itself a good. A sacrifice which does not increase, or tend to increase, the sum total of happiness, it considers as wasted. The only self-renunciation which it applauds, is devotion to the happiness, or to some of the means of happiness, of others; either of mankind collectively, or of individuals within the limits imposed by the collective interests of mankind.

Mill derives the moral value of sacrifice not in the action itself (sacrifice alone) but in the effect produced. In this way, he allows sacrifice without suffering accusations of nihilism. If sacrifice is itself a moral good, then the most moral state is one of total self-denial in the form of self-destruction. Mill argues that sacrifice is only moral when it produced a better world; thus, there is no total destruction (for this destruction is not a place of great happiness).

This sacrifice is only possible when one recognizes that all people have an equal claim to happiness and, therefore, the principle of utility is not a self-regarding principle.

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.155-6.

I must repeat, what the assailants of utilitarianism seldom have the justice to acknowledge, that the happiness which forms the utilitarian standard of what is right in conduct, not the agent's own happiness, but that of all concerned.

There is a trade-off between the recognition of self-interest in morality and the recognition of equality. The theories that argue for equality between the interests of the agent and the interests of the other affected parties do not recognize that the agent may have more of a tie to the effects of the actions than the other parties. It treats all people's claims as equal; this is not always a popular way to decide the morality of an action. Many argue that we should not suggest that people have an equal claim to happiness. For instance, a criminal does not have the same claim as an innocent person. This requires a standard with which we can evaluate the different claims to happiness. This standard creates a host of theoretical problems that Mill avoids by providing blanket equality for all people's claim to happiness.

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.156.

In the golden rule of Jesus of Nazareth, we read the complete spirit of the ethics of utility. To do as one would be done by, and to love one's neighbor as oneself, constitute the ideal perfection of utilitarian morality. As the means of making the nearest approach to this ideal, utility would enjoin, first, that laws and social arrangements should place the happiness, or (as speaking practically it may be called) the interest, of every individual, as nearly as possible in harmony with the interest of the whole; and secondly, that education and opinion, which have so a power over human character, should so use that power as to establish in the mind of every individual an insoluble association between his happiness and the good of the whole; especially between his happiness and the practices of such modes of conduct, negative and positive, as regard for the universal happiness prescribes: so that not only he may be unable to conceive the possibility of happiness to himself, consistently with the conduct opposed to the general good, but also that a direct impulse to promote the general good may be in every individuals one of the habitual motives of action, and the sentiments connected therewith may fill a large and prominent place in every human being's sentient existence.

The principle of utility only binds people in relation to their power to affect other people. The more powerful someone is, the more people they can affect and the more that utility will require of them. The weakest people in society, those that can not affect many people, are not bound much by utility. This conforms to some intuitive notions of power and responsibility: the more a person is able to do, the more they are responsible to do.

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.158.

The multiplication of happiness is, according to the utilitarian ethics, the object of virtue: the occasions on which any person (except one in a thousand) has it in his power to do this on an extended scale, in other words, to be a public benefactor, are but exceptional; and on these occasions alone is he called on to consider public utility; in every other case, private utility, the interests or happiness of some few persons, is all he has to attend to. Those alone the influence of whose actions extends to society in general, need concern themselves habitually about so large an object.

The problems associated with reconciling public actions and personal assessments of utility create room for many people to accuse the principle of utility of being beyond the ability for most people to comprehend. If it is complicated, it may allow some people to rationalize injustice as a misapplication of utility. Mill scoffs at this by saying that all moral theories can be subverted by individual misapplication.

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.164.

There is no difficulty in proving any ethical standard whatever to work ill, if we suppose universal idiocy to be conjoined with it; but on any hypothesis short of that, mankind must by this time have acquired positive beliefs as to the effects of some actions on their happiness; and the belief which have thus come down are the rules of morality for the multitude, and for the philosophers until he has succeeded in finding better.

The misapplication of a theory is not grounds for dismissing the moral theory itself. But, is a theory that is prone to misapplication a good moral theory? How could you compare the ability to apply two systems? Both Kant and Mill are thoroughly convinced that their theories are easily applied. Both are also convinced that the other's theory is impossible to apply. (Go figure.)

One edge that utility enjoys, in ease of application, is the unity of the standard. The existence of a single standard requires that individuals apply one rule in many instances, but does not require a rule to adjudicate conflicts of moral rules (as a moral system with multiple rules would have). This may be simpler; Mill argues that the ability to resolve the conflict between duties gives utility a leg up on the competition.

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.166.

If utility is the ultimate source of moral obligations, utility may be invoked to decide between them when their demands are incompatible. Though the application of the standard may be difficult, it is better than none at all: while in other systems, the moral laws all claiming independent authority, there is no common umpire entitled to interfere between them; their claims to precedence one over another rest on little better than sophistry, and unless determined, as they generally are, by the unacknowledged influence of considerations of utility, afford a free scope for the actions of personal desires and partialities.

This seems, to me, to be the most persuasive reason for utilitarian moral theory. The inability of most moral theories to resolve conflicts between fundamental principles and moral rules creates situations of moral paralysis. This is characteristic of theories, such as Kant's, where, when asked to choose between lying and causing harm, a person may not be able to resolve either duty. Mill suggests that the theory of utility is necessary as a self-contained theory that can answer any moral questions as they are raised.

Furthermore, Mill argues that moral theories should not be based on the internal feelings of a person because we could never accuse a person of being immoral if they simply did not possess moral feelings.

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.170.

The ultimate sanction, therefore, of all morality (external motives apart) being a subjective feeling in our own minds, I see nothing embarrassing to those whose standard is utility, in the question, what is the sanctions of that particular standard? We may answer, the same as of all other moral standards in the conscientious feelings of mankind. Undoubtedly this sanction has no binding efficacy on those whose do not possess be more obedient to any other moral principles than to the utilitarian one. Of them morality of any kind has no hold but through the external sanctions.

Society and Utility

Mill does not want to rely on the feelings of any person as the basis of a social order. Furthermore, he needs an explanation of legislative ethics to evolve from the more general theory of morality. If morality is entirely internal, there is no role for legislation in morality. This internal system of morality (as Kant suggests) requires a separate standard for external rule making and legislation. Mill wants a single system. If the system of morality, as expressed by Mill, is not internal, then what serves as the basis for its influence on human decision making?

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.172-3.

But there is this basis of powerful natural sentiment; and this it is which, when once the general happiness is recognized as the ethical standard, will constitute the strength of the utilitarian morality. This firm foundation is that of the social feeling of mankind; the desire to be in the unity with our fellow creatures, which is already a powerful principle in human nature, and happily one of those which tend to become stronger, even without express inculcation, from the influences of advancing civilization. The social state is at once so natural, so necessary, and so habitual to man, that, except in some unusual circumstances or by an effort of voluntary abstraction, he never conceives himself otherwise than as a member of a body; and this association is riveted more and more, as mankind are further removed from the state of savage independence.

This is an interesting conclusion from the hypothesis that humans are social animals. If the social animal hypothesis creates a predisposition toward sympathy, how far does this extend? It is one thing to say that I may naturally want to help a member of my community, it is entirely another thing to say that I will treat the interests of others with the same importance as I treat my own. Is it unnatural to prefer the well-being of my family or myself to the well-being of strangers? The principle of utility would suggest that this sort of preference is immoral. It may be natural to be social. But, are we naturally accepting of all people including those outside of our self-defined community?

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.173.

Any condition, therefore, which is essential to a state of society, becomes more and more an inseparable part of every person's conception of the state of things which he is born into, and which is the destiny of a human being. Now, society between human beings, except in relation of master and slave, is manifestly impossible on any other footing than that the interests of all are to be consulted. Society between equals can only exist on the understanding that the interests of all are to be regarded as equal.

When you think about the history of humankind, do you see an inherent tendency toward equality? I argue the opposite. Equality seems to be one of the most difficult arguments to win; it's certainly one of the most difficult types of social change to bring about in society. If this is not an inherent tendency in humans, is the idea that all morality should account for all people inherent?

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.173.

And since all states of civilization, every person, except an absolute monarch, has equals, every one is obliged to live on these terms with somebody: and in every age some advance is made towards a state in which it will be impossible to live permanently on other terms, with anybody. In this way people grow up unable to conceive as possible to them a state of total disregard of other people's interests.

Mill is indeed optimistic. But, one aspect of the argument is most important. Utilitarianism is based on an assumption of the fundamental equality among people. Other theories create systems to define rights and create inequalities with the designation of some people as rights holders and others as without rights claims. Mill simplified this and eliminates the possibility of inequality by saying that everyone has a single fundamental right: the right to be treated as a person with an equal and legitimate claim to happiness.

People are more likely to assume that the social interest is congruent with their individual interests when the society cooperates to achieve a single end.

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.173.

They are also familiar with the fact of co-operating with others, and proposing to themselves a collective, not an individual, interest, as the aim (at least for the time being) of their actions. As long as they are co-operating, their ends are identified with those of others; there is at least a temporary feeling that the interests of others are their own interests.

This identification of similar interests creates the likelihood that cooperation can serve as the basis for a stable social order. The social conditioning of cooperation toward a single goal lowers the risk of conflict between individual interests. The similarity of ends also creates peripheral benefits by giving individuals a reason to ignore conflicts that are unrelated to the social goals. In short, cooperation places a price on competition: the loss of socially efficient goal achievement.

This homogenization of interests is only the beginning. The process which begins to bring individual interests together also begins to bring individual's feelings together.

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.173-4.

Not only does all strengthening of social ties, and all healthy growth of society, give to each individual a stronger personal interest in practically consulting the welfare of others; it also leads him to identify his feelings more and more with their good, or at least with an ever greater degree of practical consideration for it.

The process of cooperation creates homogenization on two levels. First, the cooperation creates a congruence of interests because the community seeks to work for a common goal. Even beyond the mutual self-interest, Mill suggests that the individuals in the community begin to grow closer. At some point, self-interested cooperation is replaced with a congruence of interests and a genuine concern for the welfare of other members of the community. At this point, a group assumes the form of a sociological community; one where each person has more than an incidental interest in the benefit of others and actually cares about their well-being.

This process of community creation expresses the inherent sociality of human beings and creates an ability, and a desire, to consider the effect that an action will have on the well-being of other people to whom you are socially connected.

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.175-6.

The deeply rooted conception which every individual even now has of himself as a social being, tends to make him feel it one of his natural wants that there should be harmony between his feelings and aims and those of his fellow creatures. This conviction is the ultimate sanction of the greatest-happiness morality. This it is which makes any mind, of well developed feelings, work with, and not against, the outward motives to care for others, afforded by what I have called the external sanctions; and when those sanctions are wanting, or act in an opposite direction, constitutes in itself a powerful internal binding of the character, since few but those whose mind is a moral blank, could bear to lay out their course of life on the plan of paying no regard to others except so far as their own private interests compels.

Again, Mill resorts to verification of his theory by some sort of reasonability argument. Reasonable people would accept the principle of utility in order to satiate their yearnings to be social and consider the interests of other people. Are all people social in this way? If so, why is an announced system of morality necessary? If it is natural why do we need laws?

Mill moves on to consider the question of what proof can be offered for the principle of society. The beauty of the principle of utility is that happiness is the irreducible basis for all moral decisions.

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.177.

Questions about ends are, in other words, questions about what things are desirable. The utilitarian doctrine is that happiness is desirable, and the only thing desirable, as an end; all other things being only desirable as a means to that end.

The proof of happiness is difficult to describe. How do we know that happiness is not just a delusion of the mind? The only proof is the constant search for it. I think that the term happiness must exist, by definition. Happiness could be defined as the attainment of ends, but this would beg a definitional tautology. Mill takes the former approach and avoids the logical problems of the definitional approach.

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.177-8.

The only proof that a sound is audible, is that people hear it: and so of the other sources of our experience. In like manner, I apprehend, the sole evidence it is possible that anything is desirable, is that people do actually desire it.

This, again, brings up the debate over consensus as the basis of morality. If people desire something, is that reason enough for that object to create moral obligations? Consider what I suspect is a pretty feasible scenario. If we discover a new fruit that a large group of people say is wonderful, despite its carcinogenic tendencies . . . would we say that this fruit is desirable despite the fact that it can kill, because people do actually desire it? Would it be wrong to deny someone access to this fruit? The only justification for this would be the greater utility of denial, but that goes outside of the example. At the time that Mill was writing, many people found it perfectly reasonable to use (and abuse) opium. Is happiness that subjective? If so, is it a reasonable ground for moral obligation?

Are all goals of equal value? Are some forms of happiness unjustified? It may be nice to say that all people should be able to achieve their goals. But, do we want to say that the consensus on the desirability of an object creates a moral form of happiness?

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.180.

Still, however, the strongest natural attraction, both of power and fame, is the immense aid they give to the attainment of our wishes; and it is the strong association thus generated between them and all our objects of desire, which gives to them the intensity it often assumes, so as in some characters to surpass in strength other desires.

The fundamental claim of happiness is the achievement of personal life-plans. This is similar to the basic rights that many dignity theories maintain. All people, as rational beings, have a right to pursue their goals as long as they do not interfere with the rights of others. This is defined slightly differently by the rule of utility. The basis of all happiness is the achievement of goals; therefore, the strongest claim anyone can have is to the peaceful pursuit of their own happiness in the form of their life-plan. In this way, Mill is able to derive a fairly libertarian conclusion from a utilitarian basis.

This still leaves unsettled the possibility that it might be moral to frustrate a person in the achievement of their goals in order to allow for a group of people to achieve their goals. Consider the following situation. You are contacted by a consortium of people who need your internal organs. One person needs your liver or he will die; another your heart or she will die. All in all, your death will save 3 people of approximately the same age. They argue that more happiness will be created by your death (and reuse of your organs) than in your continued existence at the cost of their lives.

Most people are repulsed by this concept. A trade-off like this makes the gut wrench. We live separate lives and, therefore, forced trade-offs between us are illegitimate. The theory of utility does not answer this question in an intuitively satisfying manner. It would probably demand the sacrifice of one person to save 3 others. Taking this example to the extreme may test the non-sacrificial argument. If somehow (I am not quite sure how) your death would prevent the pain, suffering, and eventual death of everyone else on earth, would you be morally obligated to die? Would it be legitimate for a government to force your death? This falls into a troubling category of arguments called moral catastrophe; tests that really makes us question the non-utilitarian aspects of common wisdom. Mill accepts utilitarianism pretty much unquestionably, but the answer for most people (i.e. your judges) probably falls somewhere in-between forced organ transplants and moral catastrophe.

Justice and Utility

Finally, Mill looks to a topic that will probably interest LDers more than the general philosophical arguments about happiness. Mill looks to the relationship between the principle of utility and justice. One element that should be noticed immediately is that Mill is coming from the Bentham tradition and is probably referring to justice in the sense of criminal justice. Mill does, however, recognize that justice is used in a much broader sense than the idea of penal law.

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.192.

It is true that mankind considers the idea of justice and its obligations as applicable to many things which neither are, nor is it desired that they should be, regulated by law. Nobody desires that laws should interfere with the whole detail of private life; yet everyone allows that in all daily conduct a person may and does show himself to be either just or unjust. But even here, the idea of the breach of what ought to be law still lingers in a modified shape.

Mill then explains that justice regulates the definition of the law. This may suggest, though Mill is unclear in this quote, that if something ought not be regulated by law, then maybe it ought not be a component of justice. What is the "modified shape" of law that is justice?

Mill takes this a step further when he argues that to obligate someone to an action is to be morally able to coerce them to uphold that action.

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.192.

When we think that a person is bound in justice to do a thing, it is an ordinary form of language to say, that he ought to be compelled to do it.

This is a very powerful quote in terms of LD strategy (though it is a little short). This quote establishes the burden of proof for any debater arguing that justice is the standard by which we determine legitimate obligations. If we are looking for justice based obligations, the affirmative (attempting to prove a resolution in such a way) would have to prove that the claim that generates this obligation is strong enough to justify coercion. This clarifies the burden of proof for justice based obligation. The affirmative has to prove that the obligation allows intervention; probably state intervention. In truth, Mill seems to water this down a bit. He suggests that all we have to do is argue that someone's conscience is a source of compulsion. The affirmative must show that a person's conscience would compel them to act in such a manner.

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.193.

For the truth is, that the ideal of penal sanction, which is the essence of law enters not only into the conception of injustice, but into that of any kind of wrong. We do not call anything wrong, unless we mean to imply that a person ought to be punished in some way for not doing it; if not by law, by the opinion of his fellow creatures; if not by opinion, by the reproaches of his own conscious.

What types of wrong justify resorting to public coercion? The answer probably lies in the analysis that utilitarian morality considers the implications on all affected parties. If an action affects the public at large, then public penal law is appropriate. If an action only affects an individual, then that individual is responsible only to him or herself. The punishment should fit the effect of the crimes. The possibility of internal coercion really plays with the concept of duty. It is difficult, on one level, to say that a person can coerce themselves. It is also difficult to say that a person can have a duty, an obligation, which justifies compulsion to oneself.

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.193.

It is part of the notion of Duty in every one of its forms, that a person may rightfully be compelled to fulfill to it. Duty is a thing which may be exacted from a person, as one exacts a debt. Unless we think that it might be exacted from him, we do not call it his duty.

This seems to contradict Mill's argument that punishment can be internal. How can one be said to owe a debt to oneself? If all obligations are products of duties, and all duties include a right to compulsion, then can we actually be said to hold an obligation to ourselves?

The answer to this may lie in creating different types of obligations. Mill creates a system of obligations where some create correlative rights (and, thus, the ability to coerce) and some that do not.

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.194.

In the more precise language of philosophical jurists, duties of perfect obligations are those duties in virtue of which a correlative right resides in some person or persons; duties of imperfect obligation are those moral obligations which do not give birth to any right. I think it will be found that this distinction exactly coincides with that which exists between justice and other obligations of morality. In our survey of the various popular acceptations of justice, the term appeared generally to involve the idea of a personal right a claim on the part of one or more individuals, like that which the law gives when it confers a propriety or other legal right.

Returning to the concept of justice, Mill suggests that obligations of justice are perfect obligations. The burden of proof for any case that presents obligations derived from justice is to show that their obligations are perfect and, thus, generate enforceable correlative rights. Other bases of obligation do not generate these rights and, thus, do not justify coercion in the same way as justice based obligations. This still leaves unresolved the question of which obligations are perfect. It is still difficult to reconcile the idea of an imperfect, non-right generating, obligation with Mill's suggestion that all obligations include a justification for compulsion. This may well be a case where Mill's philosophy is falling victim to the beauty of his writings.

With the idea of justice and utility based obligations, Mill returns to the subject of the most influential test for moral obligations: Kant's Categorical Imperative.

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.197-8.

When Kant (as before remarked) propounds as the fundamental principle of morals, 'So act, that thy rule of conduct might be adopted as a law by all rational beings,' he virtually acknowledges that the interest of mankind collectively, or at least of mankind indiscriminately, must be in the mind of the agent when conscientiously deciding on the morality of the act. Otherwise he uses words without a meaning: for, that a rule even of utter selfishness could not possibly be adopted by all rational beings that there is any insuperable obstacle in the nature of things to its adoption cannot be even plausibly maintained. To give any meaning to Kant's principle, the sense put upon it must be, that we ought to shape our conduct by a rule which all rational beings might adopt with benefit to their collective interest.

This is not an entirely accurate reading of Kant's categorical imperative. Kant suggests that a will can not create a contradiction when universalized. This is quite different from Mill's reading that a will must maximize collective interest. Kant is not suggesting that a person can be sacrificed in order to attain a collective end; Mill is suggesting precisely that (though reluctantly). A better way to explain this may be to suggest that the only will (maxim) that can be entirely universal is the pursuit of happiness. All else is nihilism.

Mill, thus, argues that the principle of utility generates obligations in much the same way as the deontological theories. This is why Mill's theories are often called rule utilitarianism. The utilitarianism that Mill proposes adopts rules of conduct and generates particular obligations. This may be more conducive to application in the debate of LD resolutions. Most LD resolutions require a comparison of moral obligations. The Benthamite tradition rejects the use of conflicting obligations to make moral decisions. Instead, the tradition argues that there is only one moral obligation: the pursuit of happiness. Mill changes this slightly by accepting the idea that utility can produce justice satisfying obligations. The language of obligations that Mill uses is more easily applied to LD resolutions, though the arguments themselves are not much different from the original work of Bentham.

Mill takes the language of rights and obligations and applies it to the principle of utility. Many authors question the existence of rights in any real sense with the principle of utility. Aren't rights defined by the immutability of their warrants despite the will of the society? Are rights worth anything if they are all conditional on the congruence of social utility and individual actions? Mill sees a place for rights because some obligations of utility will create perfect obligations and, thus, rights.

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.198.

When we call anything a person's right, we mean that he has a valid claim on society to protect him in the possession of it, either by the force of law, or by that of education and opinion.

This forces the question of legitimacy down a level of analysis. Mill suggests that rights are "valid claims" which requires a standard of validation. This is where utility becomes more ambiguous. The standard is whether the obligation that generates that right is perfect, and also that the obligation is necessary for the maximization of social utility. This does not guide us very well. How do we really know what actions maximize social utility? A clarity of utility will be needed for clear definitions of rights. Mill is aware of the ambiguity inherent in utility.

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.200.

We are continually informed that Utility is an uncertain standard, which every different person interprets differently, and that there is no safety but in the immutable, ineffaceable, and unmistakable dictates of Justice, which carry their evidence in themselves, and are independent of the fluctuations of opinion. One would suppose from this that on questions of justice there could be no controversy; that if we take that for our rule, its application to any given case could leave us in as little doubt as a mathematical demonstration. So far is this from being the fact, that there is as much difference of opinion, and as fierce discussion, about what is just, as about what is useful to society. Not only have different nations and individuals different notions of justice, but, in the mind of one and the same individual, justice is not some one rule, principle, or maxim, but many, which do not always coincide in their dictates, and in choosing between which, he is guided either by some extraneous standard, or by his own personal predilections.

This has a ring of truth. There is no consensus on the concept of justice or even how it applies to particular situations. In fact, there would not be much of a role for LD debate if moral questions were non-controversial. In debate terms, the ambiguity argument is non-unique. Theories of pure justice as well as theories of utility are both ambiguous. The charges of ambiguity should not be used to dejustify Mill's theory. At the same time, the theory should try to be more specific.

Mills uses the ambiguity of the justice theories to carve a niche for utilitarianism. Justice theories are notoriously bad about resolving conflicts between two obligations. Justice theories often set up multiple obligations but do not set up a way to resolve conflict between obligations.

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.203-4.

Who shall decide between these appeals to conflicting principles of justice? Justice has in this case two sides to it, which it is impossible to bring into harmony, and the two disputants have chosen opposite sides; the one looks to what it is just that the individual should receive, the other to what it is just that the community should give. Each, from his own point of view, is unanswerable; and any choice between them, on grounds of justice, must be perfectly arbitrary. Social utility alone can decide the preference.

This argument is my personal favorite for utilitarian standards. The existence of a single standard allows for dispute resolution. In LD, this can be supported by pointing out that many standards of justice come into conflict, thus creating a need for an independent standard to adjudicate the conflict. Most resolutions are examples of competing standards of justice and are ripe for examples of competing obligations. If you can point out that a conflict occurs between the principles of justice, you may justify the need for a resolving principle that you can conveniently offer in the form of social utility.

This still requires that you be able to argue that the principle of social utility has a clear home on your side of the resolution. Recently, resolutions have been written to accommodate this strategy with ease. Most topics have featured conflicts between the individual and society and, thus, the negative can assert a clear link to social utility. One must be very careful with this; there is a presumption against utilitarian theories in many parts of the country. This is a very powerful tool on the flow. But, you must be sure you can defend the theory in general during cross examination.

In the end, Mill likes the idea of justice as long as it is contingent upon the principle of utility.

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.205.

While I dispute the pretensions of any theory which sets up an imaginary standard of justice not grounded upon utility, I account the justice which is grounded on utility to be the chief part, and incomparably the most sacred and binding part, of all morality. Justice is a name for certain classes of moral rules, which concern the essentials of human well-being more nearly, and are therefore of more absolute guidance of life; and the notion which we have found to be of the essence of the idea of justice, that of a right residing in an individual, implies and testifies to this more binding obligation.

The theory of utilitarianism was predicated on a bonding of legislative and personal morality. In a sense, this unites the standards of morality and justice in a way that allows justice to generate moral obligations. This is relatively uncontroversial in LD now. But, not long ago, I had judges tell me that justice was the only source of obligations and that morality was unrelated to justice. Mill asserts that the two concepts are inseparable and, if anything, morality is the largest concept that encompasses not only legitimate sources of coercion but also internal moral requirements.

Mill then confronts the most common definition of justice as giving each person their due.

Mill, John Stuart. "Utilitarianism". In *ON LIBERTY AND UTILITARIANISM*. Reprinted by Bantam Books. New York. 1993. Pg.208.

If it is a duty to do to each according to his deserts, returning good for good as well as repressing evil by evil, it necessarily follows that we should treat all equally well (when no higher duty forbids it) who deserved equally well of us, and that society should treat all equally well who have deserved equally well of it, that is, who have deserved equally well absolutely. This is the highest abstract standard of social and distributive justice; towards which all institutions, and the efforts of all virtuous citizens, should be made in the utmost possible degree to converge.

Mill is aware of the limitations of this sort of definition of justice. The question: What is just? becomes the question: What constitutes relevant differences? These problems are discussed in full in the first two volumes of this series. Mill uses the problem of defining just differentiation by placing utility as the final arbiter of all claims.

Mill, John Stuart. "Utilitarianism". In *ON LIBERTY AND UTILITARIANISM*. Reprinted by Bantam Books. New York. 1993. Pg.208.

But this great moral duty rests upon a still deeper foundation, being a direct emanation from the first principle of morals, and not a mere logical corollary from secondary or derivative doctrines. It is involved in the very meaning of Utility, or the Greatest Happiness Principle. That principle is a mere form of words without rational signification, unless one person's happiness, supposed equal in degree (with the proper allowance for kind), is counted for exactly as much as another's. Those conditions being supplied, Bentham's dictum 'everybody to count for one, nobody for more than one,' might be written under the principle of utility as an explanatory.

This is not as much an explanation of just differentiation as it is a rejection of fundamental differentiation. Mill argues that people are all due the same thing; equal regard as sources of utility and happiness. Relevant differences are a way to discriminate in order to maximize utility. In many ways, Mill is really missing the boat here.

Justice is usually defined as a historical concept. It refers to desert as a way to see what people earned in the past to justify their treatment in the present. Mill is rejecting this sort of historical analysis. Mill would require that the sole moral standard include the future implication of any action on happiness, regardless of the history of the actors in the incident. It is a very hard sell to suggest, as Mill does, that the historical principle of desert is derived from future based principles such as utility. Utility still retains the moral implication of total equal consideration, recognizing the dignity that each person possesses equally as a person due happiness.

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.208-9.

The equal claim of everybody to happiness in the estimation of the moralist and the legislator, involves an equal claim to all the means of happiness, except in so far as the inevitable conditions of human life, and the general interest, in which that of every individual is included, set limits to the maxim; and those limits ought to be strictly construed. As every other maxim of justice, so this, is by no means applied or held applicable universally; on the contrary, as I have already remarked, it bends to every person's ideas of social expediency. But in whatever case it is deemed applicable to all, it is held to be the dictate of justice. All persons are deemed to have a right to equality of treatment, except when some recognized social expediency requires the reverse.

This is a nice quote that says very little. But, perhaps it makes you feel better about utility. Mill argues that utility is similar to justice; all people are treated equally except when socially expedient. The largest practical indictment of utility is that this exception jeopardizes all rights. People are not really equal if any social expediency can justify unequal treatment. At the same time, no rights truly exist if they can be overridden by social utility. The only real right is to be one of the many people whose interest is consulted. Mill argues, quite skillfully, that the danger to not being counted equally as a source of social utility is great. He barely recognizes the tradeoff. The danger of utility, when compared to its benefits, can be expressed like this: is it better to be an equal voice in an omnipotent society, or a possible unequal part in a limited society?

Much of this danger has passed into antiquity, as Mill predicted. Inequalities are eroding (though not as fast as some may like) as social practices of inequalities are discarded. At the same time, there is no more stable example of an omnipotent government. What dangers are most important now?

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.210.

The entire history of social improvement has been a series of transitions, by which one custom or institution after another, from being a supposed primary necessity of social existence, has passed into the rank of universally stigmatized injustice and tyranny. So it has been with the distinctions of slaves and freedman, nobles and serfs, patricians and plebeians, and so it will be, and in part already is, with the aristocracies of colour, race, and sex.

The fundamental characteristic of social progress seems to be the elimination of inequalities. It is natural, from this perspective, to argue that the ultimate moral standard supports absolute equality of moral beings. The power of egalitarian arguments (of the utilitarian principle) springs from Mill's desire for equality. He wrote a wonderful tract against gender inequality way before it was cool to do so. This passion of inequality is the fundamental driving force behind the entire theory.

In standard Mill fashion, he finishes his book with a powerful appeal to the general principles of morality that support his theory. In this case, he argues that justice is a necessary product of social utility and that social utility, as a fundamental principle, is the basis for just action by a person or a legislator.

Mill, John Stuart. "Utilitarianism". In ON LIBERTY AND UTILITARIANISM. Reprinted by Bantam Books. New York. 1993. Pg.211.

Justice remains the appropriate name for certain social utilities which are vastly more important, and therefore more absolute and imperative, than any others and as a class (though not more so than others may be in particular cases); and which, therefore, ought to be, as well as naturally are, guarded by a sentiment not only different in degree, but also in kind; distinguished from the milder feelings which attaches to the mere idea of promoting human pleasure or convenience, at once by the more definite nature of its commands, and by the sterner character of its sanctions.

Discussion Questions

1. How does Mill's version of utilitarianism differ from Bentham's?
2. What does justice mean in the context of utilitarianism?
3. Is there room for a theory of absolute rights in Mill's moral theory?

Resolutions

1. Resolved: that capital punishment is justified.
2. Resolved: that individual expressive freedoms ought to be limited by community standards.
3. Resolved: that a just social order ought to value the principle of liberty above that of equality.

FOUNDATIONS OF SINGER'S PREFERENCE UTILITARIANISM

Utilitarianism is alive and well. From about the time of Mill's UTILITARIANISM to the publication of Rawls' A THEORY OF JUSTICE, utilitarians dominated philosophical circles. There were a variety of flavors of utilitarianism. There were controversies within the utilitarian community, but utility ruled the day. Rawls published A THEORY OF JUSTICE as an attempt to combat the dominance of utilitarianism. He was successful creating renewed interest in rights theory, but utilitarianism still exists as a major philosophical force. The next author discussed in this volume is an example of a contemporary utilitarian author.

Peter Singer is quite a controversial author. He is picketed wherever he speaks. Classes using his textbook have been boycotted all over the United States and Germany. He takes a number of controversial positions (that we will see soon) because of his faithful dedication to his utilitarian principles. He is so dedicated to his utilitarian premises, he discovers applications of utilitarianism that make perfect sense from a utilitarian perspective but frighten others. This section will cover some of the foundations of Singer's preference utilitarianism. The next section will cover applications of these principles to a number of philosophical controversies.

Preference Utilitarianism

Singer begins his book by exploring what we mean by morality. He notes that morality means more than sexual ethics. Morality also means more than a nice idea that fails in practice. Morality should be a practical guide for conduct. He sees deontological theories as providing a bad name for morality. When most people think of morality, they think of systems of rules. Singer argues that the failure of the deontological project has turned many off of the possibility of a universal system of morality.

Singer, Peter. PRACTICAL ETHICS: SECOND EDITION. New York, NY: Cambridge University Press. 1993. Pgs. 2-3.

Some people think that ethics is inapplicable to the real world because they regard it as a system of short and simple rules like 'Do not lie', 'Do not steal', and 'Do not kill'. IT is not surprising that those who hold this view of ethics should also believe that ethics is not suited to life's complexities. In unusual situations, simple rules conflict: and even when they do not, following a rule can lead to disaster. It may normally be wrong to lie, but if you were living in Nazi Germany and the Gestapo agent came to your door looking for Jews, it would surely be right to deny the existence of the Jewish family hiding in your attic. Like the failure of a restrictive sexual morality, the failure of an ethic of simple rules must not be taken as a failure of ethics as a whole, and not even an irremediable failure of that view. The deontologists - those who think that ethics is a system of rules - can rescue their position by finding more complicated and more specific rules that do not conflict with each other, or by ranking the rules in some hierarchical structure to resolve conflicts between them. Moreover, there is a long-standing approach to ethics that is quite untouched by the complexities that make simple rules difficult to apply. This is the consequentialist view. Consequentialists start not with moral rules but with goals. They assess actions by the extent to which they further these goals. The best-known, though not the only, consequentialist theory is utilitarianism. The classical utilitarian regards an action as right if it produces as much or more of an increase in the happiness of all affected by it than any alternative action, and wrong if it does not.

The exclusionary view of morality is also common in debate. Most LD judges are familiar with the rule-based models of morality. Many of these judges closely associate rules with morality. Topics often assume that any moral justification will be based on the application of simple moral rules. This is aggravated by the distinction drawn between justice and morality. Many people associate justice with competing obligations and costly decisions. Justice may demand breaking a rule. Justice, in this view, covers situations where rules conflict or some people have to give up some claim for the sake of others. These definitions of justice and morality are not philosophical constructs. They are only connotations, not denotations. As Singer points out, there is no reason that morality can not be based on the resolution of conflicting claims in the view of a state goal. Furthermore, justice can be based on a set of simple rules (rights). The distinction between the two terms is artificial, but some debaters treat it as gospel.

Singer wants to replace the rule-based system of morality with a more practical system (hence the title of this book). Singer wants a system of morality that provides a realistic view of every moral dilemma.

Singer, Peter. PRACTICAL ETHICS: SECOND EDITION. New York, NY: Cambridge University Press. 1993. Pg. 3.

The consequences of an action vary according to the circumstances in which it is performed. Hence a utilitarian can never properly be accused of a lack of realism, or a rigid adherence to ideals in defiance of practical experience. The utilitarian will judge lying bad in some circumstances and good in others, depending on its consequences.

While Singer sees this as an advantage, many other authors criticize consequentialist morality for exactly this quality. In a consequentialist system, there are no forbidden actions. There are no actions that one can never take. Some see this prospect as frightening. Consequentialism might allow torture in some circumstances. It would certainly allow killing innocent people in some circumstances. Critics of consequentialism accuse this moral system of letting anything go. There are no rights; there are no restrictions. There are no rules. To some, this is pure relativism. All morality is relative so don't make moral rules.

This is a misunderstanding of consequentialism. Consequentialism does not claim that anything goes. For every moral question (in any one circumstance), there is one correct action. You can criticize the decisions of others within consequentialism if people pursue the wrong goals. This is not pure relativism. Consequentialism simply contends that the correct answer to any moral decision depends on the context of the decision.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pgs. 4-5.

Let us take first the asserted idea that ethics is relative to the society one happens to live in. This is true in one sense and false in another. It is true that, as we have seen in discussing consequentialism, actions that are right in one situation because of their good consequences may be wrong in another situation because of their bad consequences. Thus casual sexual intercourse may be wrong when it leads to the existence of children who cannot be adequately care for, and not wrong when, because of the existence of effective contraception, it does not lead to reproduction at all. But this is only a superficial form of relativism. While it suggests that the applicability of a specific principle like "Casual sex is wrong" may be relative to time and place, it says nothing against such a principle being objectively valid in specific circumstances, or against the universal applicability of a more general principle like 'Do what increases happiness and reduces suffering.'

To Singer this form of relativism is an advantage. You do not make poor decisions because you are trying to apply simple moral rules to complicated situations (like the Nazi example). You can accept one general proposition and apply it to create objectively valid criteria in each specific circumstance. To critics, you abandon the idea of rights and absolute restrictions allowing for dangerous decisions (maybe some people will think it is in the long-term interest of all involved to exterminate a specific group of people).

This form of relativism does cause some problems for LD. Many of the propositions that we debate are simple moral rules of the type that Singer rejects. Singer's answer to many of these simple moral rules will be "it depends." That is not an acceptable answer for most LD judges. An "it depends" case will not serve to negate the resolution. It will surely not affirm. You will have to rely of a different approach. Clearly, the utility of any moral rules depends on how that rule is applied. However, some moral rules may lead to bad results in general. In most cases, or the most representative cases, these moral rules will be bad. This is somewhat of an abuse of Singer's utilitarianism (because he rejects all simple moral rules) but it does represent the spirit of Singer's argument in the specific venue of LD debate. This is definitely a limitation you should consider before you use Singer to justify any position.

Singer obviously wants to find a moral system based on the consequences of any action. This does not establish what goals people are supposed to achieve. Singer considers and rejects one popular goal, self-interest.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pg. 10.

It we are to accept that a person is living according to ethical standards, the justification must be of a certain kind. For instance, a justification in terms of self-interests alone will not do. When MacBeth, contemplating the murder of Duncan, admits that only 'valuing ambition' drives him to do it, he is admitting that the act cannot be justified ethically. 'So that I can be king in his place' is not a weak attempt at an ethical justification for assassination; it is not the sort of reason that counts as an ethical justification at all. Self-interested acts must be shown to be compatible with more broadly based ethical principles if they are to be ethically defensible, for the notion of ethics carries with it the idea of something bigger than the individual. If I am to defend my conduct on ethical grounds, I cannot point only to the benefits it brings me. I must address myself to a larger audience.

Instead of self-interest, Singer argues that universality must be the basis of ethics.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pgs. 11-13.

One could argue endlessly about the merits of each these characterizations of the ethical, but what they have in common is more important than their differences. They agree that an ethical principle cannot be justified in relation to any partial or sectional group. Ethics takes a universal point of view. This does not mean that a particular ethical judgment must be universally applicable. Circumstances alter causes, as we have seen. What it does mean is that in making ethical judgments we go beyond our own likes and dislikes. From an ethical point of view, the fact that it is I who benefits from, say, a more equal distribution of income and you who lose by it, is irrelevant. Ethics requires us to go beyond 'I' and 'you' to the universal law, the universalizable judgment, the standpoint of the impartial spectator or ideal observer, or whatever we choose to call it.

Singer moves from accepting a universal point of view to focusing on the implications of universality for equality. When Kant accepts universality, he also accepts equality among people (equality as the source of ends). Universality destroys the differences between people and creates equality of one sort or another. Singer recognizes this and uses it as a basis for his justification of utilitarianism.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pgs. 12-3.

In accepting that ethical judgments must be made from a universal point of view, I am accepting that my own interests cannot, simply because they are my interests, count for more than the interests of anyone else. Thus my very natural concern that my own interests be looked after must, when I think ethically, be extended to interests of others.

There are a number of ways in which this equality is different than other theories of morality. A rights theory may count all people equally, but not all interests are equal. Maybe property rights are more important than subsistence rights. This says nothing about the worth of the person holding those rights, only the relative priority of the claims. As we will see, Singer does not want to break interests into a number of claims. He wants to reduce all claims to one central interest. This will allow all people, and all claims, to be considered equally within his ethical system.

In addition to equality, a moral theory must have a certain scope. You cannot exclude some people from consideration in making an ethical decision if those people are potentially affected by the decision. Again, this contrasts with traditional rights theory. Rights define legitimate claims. If you do not have a right to my fruit, I need not consider your interest when I decide what to do with my fruit. Singer contends that we must consider the interests of all affected parties when we make a decision.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pg. 13.

Suppose I then begin to think ethically, to the extent of recognizing that my own interests cannot count for more, simply because they are my own, than the interests of others. In place of my own interests, I now have to take into account the interests of all those affected by my decisions. This requires me to weigh up all these interests of those affected. This at least at some level in my moral reasoning I must choose the course of action that has the best consequences, on balance, for all affected.

This states Singer's basic moral principle. You must act so that you further the interests of all affected parties. Notice that this throws all interests into an undifferentiated pile. Singer does not differentiate between rights and privileges. All interests make up a single index. You can then compare all interests simultaneously. In this sort of system, rights are not trumps. Rights have no specific status. The only thing that matters is "interest".

Singer is now ready to tie his theory in with traditional (Benthamite) utilitarianism.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pg. 14.

The way of thinking that I have outlined is a form of utilitarianism. It differs from classical utilitarianism in that 'best consequences' is understood as meaning what, on balance, furthers the interests of those affected, rather than merely what increases pleasure and reduces pain. (It has, however, been suggested that classical utilitarians like Bentham and John Stuart Mill used 'pleasure' and 'pain' in a broad sense that allowed them to include achieving what one desired as a 'pleasure' and the reverse as a 'pain'. If this interpretation is correct, the difference between classical utilitarianism and utilitarianism based on interests disappears.)

Singer seems to be stepping on some dangerous ground here. He defines interest as anything that a person desires. Utility is about maximizing the ability of all affected persons to achieve their desires. This does not distinguish between "good" or "valid" desires and other "bad" desires. All that matters is the desires of the affected parties. Singer does not develop this much. As we will see, he seems to use some sort of basic interest argument (in lieu of the 'anything goes' approach in this quote) but he is not very specific about it.

This is very simplistic, but that is what Singer is going for. He wants to define a moral minimum and then place the burden of proof on others to go any further than interests to create claims like rights and privileges.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pg. 14.

What does this show? It does not show that utilitarianism can be deduced from the universal aspects of ethics. There are other ethical ideals - like individual rights, the sanctity of life, justice, purity, and so on - that are universal in the required sense, and are, at least in some versions, incompatible with utilitarianism. It does show that we very swiftly arrive at an initially utilitarian position once we apply the universal aspect of ethics to simple, pre-ethical decision making. This, I believe, places the onus of proof on those who seek to go beyond utilitarianism. The utilitarian position is a minimal one, a first base that we reach by universalizing self-interested decision making. We cannot, if we are to think ethically, refuse to take this step. If we are to be persuaded that we should go beyond utilitarianism and accept non-utilitarian moral rules or ideals, we need to be provided with good reasons for taking this further step. Until such reasons are produced, we have some grounds for remaining utilitarians.

Now Singer's position makes a little more sense. He does not differentiate interests because he wants to play with the burden of proof. Singer argues that equality is the baseline for decisions. If you want to deviate from equality, you have to justify those deviations. This is a common doctrine. Singer adds this presumption to the consideration of claims as well as people. We must consider all interests as equal before we can argue that some claims are more important than others (say, rights over social goals). It is the burden of the rights theorists to argue why some people's interests are more important than others by virtue of some quality.

Singer notes that this ethic of equality seems to have swept the world (at least the Western world).

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pg. 16.

The change in attitudes to inequality - especially racial inequality - has been no less sudden and dramatic than the change in attitudes to sex, but it has been more complete. Racist assumptions shared by most Europeans at the turn of the century are now totally unacceptable, at least in public life. A poet could not now write of 'lesser breeds without the law', and retain - indeed enhance - his reputation, as Rudyard Kipling did in 1899. This does not mean that there are no longer any racists, but only that they must disguise their racism if their views and policies are to have any chance of general acceptance. Even South Africa has abandoned apartheid. The principle that all humans are equal is now part of the prevailing political and ethical orthodoxy. But what, exactly, does it mean and why do we accept it?

The resulting doctrine is an ethical principle that weighs all interests without distinguishing by any characteristics that the interest holder possess.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pg. 21.

We saw in the last chapter that when I make an ethical judgment I must go beyond a personal or sectional point of view and take into account the interests of all affected. This means that we weigh up interests, considered simply as interests and not as my interests, or the interests of Australians, or of people of European descent. This provides us with a basic principle of equality: the principle of equal consideration of interests.

Equal Consideration of Interests

Singer starts his elaboration of the principle of the equal consideration of interests with a detailed definition of the principle.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pg. 21.

The essence of the principle of equal consideration of interests is that we give equal weight in our moral deliberations to the like interests of all those affected by our actions. This means that if only X and Y would be affected by a possible act, and if X stands to lose more than Y stands to gain, it is better not to do the act. We cannot, if we accept the principle of equal consideration of interests, say that doing the act is better, despite the facts described, because we are more concerned about Y than we are about X. What the principle really amounts to is this: an interest is an interest, whoever's interest it may be.

Again, this runs directly counter to rights theory. In rights theory, we can take an action if we have a right to take that action. The consequences on others do not matter (outside of defining the boundaries of the right). Furthermore, we cannot take away a right no matter how many people benefit. Singer would say that the latter example fails to consider all interests equally. By saying that we can never violate a right, it means that we consider the interest of the right holder to be more important than all of the other affected parties.

But what counts as an interest? Singer uses the example of an interest in the alleviation of pain to illustrate the operation of interests.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pgs. 21-2.

We can make this more concrete by considering a particular interest, say the interest we have in the relief of pain. Then the principle says that the ultimate moral reason for relieving pain is simply the undesirability of pain as such, and not the undesirability of X's pain, which might be different from the undesirability of Y's pain. Of course, X's pain might be more undesirable than Y's pain because it is more painful, and then the principle of equal consideration would give greater weight to the relief of X's pain. Again, even where the pains are equal, other factors might be relevant, especially if others are affected. If there has been an earthquake we might give priority to the relief of a doctor's pain so she can treat other victims. But the doctor's pain itself counts only once, and with no added weighting. The principle of equal consideration of interests acts like a pair of scales, weighing interests impartially. True scales favour the side where the interest is stronger or where several interests combine to outweigh a smaller number of similar interest; but they take no account of whose interests they are weighing.

Singer relies heavily on the impartiality of these scales. He equates all sorts of preference for some people's interests over other's interests as similar to racism.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pgs. 22-3.

From this point of view race is irrelevant to the consideration of interests; for all that counts are the interests themselves. To give less consideration to a specified amount of pain because that pain was experienced by a member of a particular race would be to make an arbitrary distinction. Why pick on race? Why not on whether a person was born in a leap year? Or whether there is more than one vowel in her surname? All these characteristics are equally irrelevant to the undesirability of pain from the universal point of view. Hence the principle of equal consideration of interests shows straightforwardly why the most blatant form of racism, like that of the Nazis, are wrong. For the Nazis were concerned only for the welfare of members of the 'Aryan' race, and the sufferings of Jews, Gypsies, and Slavs were of no concern to them. The principle of equal consideration of interests prohibits making our readiness to consider the interests of others depends on their abilities or other characteristics, apart from the characteristic of having interests. It is true that we cannot know where equal consideration of interests will lead us until we know what interests people have, and this may vary according to their abilities or other characteristics. Consideration of the interests of the mathematically gifted children may lead us to teach them advanced mathematics at an early age, which for different children might be entirely pointless or positively harmful. But the basic element, the taking into account of the persons' interests, whatever they may be, must apply to everyone, irrespective of race, sex, or scores on an intelligence test. Enslaving those who score below a certain line on an intelligence test would not - barring extraordinary and implausible beliefs about human nature - be compatible with equal consideration. Intelligence has nothing to do with many important interests that humans have, like the interest in avoiding pain, in developing one's abilities, in satisfying basic needs for food and shelter, in enjoying friendly and loving relations with others, and in being free to pursue one's projects without unnecessary interference from others. Slavery prevents the slaves from satisfying these interests as they would want to; and the benefits it confers on the slave-owners are hardly comparable in importance to the harm it does to the slaves.

Notice Singer's treatment of slavery. He argues that slavery is wrong because the interests of the owner are far inferior to the interests of the slaves. This is a controversial way to get to a common solution. Singer agrees with most rights theories that slavery is wrong. However, Singer justifies this belief by considering the interests of the slave and the owner. Singer rejects slavery not because slavery is inherently wrong, but because slavery harms the interests of the slaves more than it helps the interests of the owners. By even considering the interests of the owners, utilitarianism is controversial because it allows for the possibility (however remote) that slavery could be justified in some circumstance where the owner's interests are greater than the slave's interests.

This equality of consideration is not equality of treatment. Singer already noted that we could treat people differently if their pain is different. Now Singer generalizes this to include a number of potential inequalities of treatment based on equality of consideration.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pgs. 23-4.

Equal consideration of interests is a minimal principle of equality in the sense that it does not dictate equal treatment. Take a relatively straightforward example of an interest, the interest in having physical pain relieved. Imagine that after an earthquake I come across two victims, one with a crushed leg, in agony, and one with a gashed thigh, in slight pain. I have only two shots of morphine left. Equal treatment would suggest that I give one to each person, but one shot would not do much to relieve the pain of the person, but one shot would not do much to relieve the pain of the person with the crushed leg. She would still be in much more pain than the other victim, and even after I have given her one shot, giving her the second shot would bring greater relief than giving a shot to the person in slight pain. Hence equal consideration of interests in this situation leads to what some may consider an inegalitarian result: two shots of morphine for one person, and none of the other.

Singer is not attempting to reconstruct the complicated Benthamite hedonic calculus. He wants to use the principle of equal consideration to build a series of intuitive principles (but certainly not 'simple moral rules'). He wants moral principles that are easy to apply and accessible for all people.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pgs. 93-4.

On this view, soundly chosen moral principles should be like a good tennis coach's instructions to a player. The instructions are given with an eye to what will pay off most of the time; they are a guide to playing "percentage tennis". Occasionally an individual player might go for a freak shot, and pull off a winner that has everyone applauding; but if the coach is any good at all, deviations from the instructions laid down will, more often than not, lose. So it is better to put the thought of going for those freak shots out of one's mind. Similarly, if we are guided by a set of well-chosen intuitive principles, we may do better if we do not attempt to calculate the consequences of each significant moral choice we must make, but instead consider what principles apply to it, and act accordingly. Perhaps very occasionally we will find ourselves in circumstances in which it is absolutely plain that departing from the principles will produce much better results that we will obtain by sticking to them, and then we may be justified in making the departure. But for most of us, most of the time, such circumstances will not arise and can be excluded from our thinking. Therefore even though at the critical level the classical utilitarian must concede the possibility of cases in which it would be better not to respect one person's desire to continue living, because the person could be killed in complete secrecy, and a great deal of unalleviated misery could thereby be prevented, this kind of thinking has no place at the intuitive level that should guide our everyday actions.

Singer distinguishes a critical and an applied level of moral decision-making. At the critical level, we assume that we can have full information and anything is possible. We can accurately assess the interests of all people and can make specific moral choices. Most decisions are not made at this level. Most moral choices are made with limited information and without access to unlimited time. In these circumstances, it is better to find general principles and stick to them. You can apply these general principles until you run in to a circumstance where it is clear that the rule will lead to the wrong choice. In these circumstances, you can reassess the principle and choose the action that will protect the most interests.

So how does this differ from the simple moral rules that Singer so hated in the first part of his argument? The differences lie in the nature of how one derives the principles and how one applies the principles. Singer's principles are built based on the experience of making decisions. You must predict the consequences of the rule and whether the consequences are, on balance, positive. This is inductive; not deductive like most rights theories. Second, you can always appeal to the most fundamental principle of equal consideration of interests in hard cases or conflicts. With "simple rules" there is not a simple way to resolve conflicts. On the application level, it is the absoluteness of the rules that Singer rejects.

Animal Liberation

Singer builds on the foundations of the equal consideration of interests to create some interesting, controversial arguments. He starts by asking why we limit the consideration of interests to human beings. Singer is actually most known for his earlier book ANIMAL LIBERATION that promoted radical protection for animal rights. Singer uses the logic behind the principle of equal consideration to justify including animals in utilitarian arguments.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pg. 55.

.... I gave reasons for believing that the fundamental principle of equality, on which the equality of all human beings rests, is the principle of equal consideration of interests. Only a basic moral principle of this kind can allow us to defend a form of equality that embraces all human beings, with all the differences that exist between them. I shall now contend that while this principle does provide an adequate basis for human equality, it provides a basis that cannot be limited to humans. In other words, I shall suggest that, having accepted the principle of equality as a sound moral basis for relations with others of our own species, we are also committed to accepting it as a sound moral basis for relations with those outside our own species - the non-human animals.

Not many political theorists address this topic. Most authors deal exclusively with humans (and usually only adult humans). Singer wants to push the boundaries of the discussion. When doing so he realized that there were no good reasons that the arguments that support respecting humans did not also support respecting non-human animals (though he will qualify this later). If the principle of equal consideration of interests only depends on having interests, then species does not serve as a natural boundary for the purpose of excluding potential parties from consideration.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pg. 56.

The argument for extending the principle of equality beyond our own species is simple, so simple that it amounts to no more than a clear understanding of the nature of the principle of equal consideration of interests. We have seen that this principle implies that our concern for others ought not to depend on what they are like, or what abilities they possess (although precisely what this concern requires us to do may vary according to the characteristics of those affected by what we do). It is on this basis that we are able to say that the fact that some people are not members of our race does not entitle us to exploit them, and similarly the fact that some people are less intelligent than others does not mean that their interests may be disregarded. But the principle also implies that the fact that beings are not members of our species does not entitle us to exploit them, and similarly the fact that other animals are less intelligent than we are does not mean that their interests may be disregarded.

The key characteristic is the ability to suffer. If a being can suffer, we ought to weigh its interests in making decisions. This really means that we must respect the interest of all beings that can have an interest.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pgs. 57-8.

If a being suffers, there can be no moral justification for refusing to take that suffering into consideration. No matter what the nature of the being, the principle of equality requires that the suffering be counted equally with the like suffering - in so far as rough comparison can be made - of any other being. If a being is not capable of suffering, or of experiencing enjoyment or happiness, there is nothing to be taken into account. This is why the limit of sentience (using the term as a convenient, if not strictly accurate, shorthand for the capacity to suffer or experience enjoyment or happiness) is the only defensible boundary of concern for the interests of others. To mark this boundary by some characteristics like intelligence or rationality would be to mark it in an arbitrary way.

To disregard the interests of non-human animals is specieist.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pg. 58.

Racists violate the principle of equality by giving greater weight to the interests of members of their own race when there is a clash between their interests and the interests of those of another race. Racists of European descent typically have not accepted that pain matters as much when it is felt by Africans, for example, as when it is felt by Europeans. Similarly those I would call 'specieist' give greater weight to the interests of members of their own species where there is a clash between their interests and the interests of those of other species. Human specieists do not accept that pain is as bad when it is felt by pigs or mice as when it is felt by humans.

Notice the linguistic parallel between specieist and racist. This is not an accident Singer went to pains to distinguish his moral theory from potential racism (and other forms of illegitimate preferences). Now the distinctions pay off. Singer wants to show that morality requires acknowledging the pain of other animals just as it requires an equal consideration of human interests. This requires what most people take to be a big assumption. Singer must assume that animals feel pain and have interests in much the same way that humans do. To use Singer's language, "rough comparison" must be possible. Singer argues that "rough comparison" is possible even if we can not communicate with non-human animals.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pgs. 60-1.

It may be objected that comparisons of the sufferings of different species are impossible to make, and that for this reason when the interests of animals and humans clash, the principle of equality gives no guidance. It is true that comparisons of suffering between members of different species cannot be made precisely. Nor, for that matter, can comparisons of suffering between different human beings be made precisely. Precision is not essential. As we shall see shortly, even if we were to prevent the infliction of suffering on animals only when the interests of humans will not be affected to anything like the extent that animals are affected, we would be forced to make radical changes in our treatment of animals that would involve our diet, the farming methods we use, experimental procedures in many fields of science, our approach to wildlife and hunting, trapping and the wearing of furs, and area of entertainment like circuses, rodeos, and zoos. As a result, the total quantity of suffering caused would be greatly reduced; so greatly that it is hard to imagine any other change of moral attitude that would cause so great a reduction in the total sum of suffering in the universe.

In the first of many analogies between non-human animals and young children, Singer argues that we are more than willing to assume that a baby human can feel pain even though we cannot prove it. We should make the same assumption about non-human animals. The basis for his belief that non-human animals can feel pain (just like the basis for his beliefs about his child) is an intuitive sense that a being is suffering.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pg. 69.

The basis of my belief that animals can feel pain is similar to the basis of my belief that my daughter can feel pain. Animals in pain behave in much the same way as humans do, and their behavior is sufficient justification for the belief that they feel pain. It is true that, with the exception of those apes who have been taught to communicate by sign language, they cannot actually say that they are feeling pain - but then when my daughter was very young she could not talk, either. She found other ways to make her inner states apparent, thereby demonstrating that we can be sure that a being is feeling pain even if the being cannot use language.

The linguistic argument for pain is difficult conceptually. Even if we can teach an animal to respond with a sign meaning "pain", they will have had to learn what the sign means. We cannot be sure that what the animal associated with the sign is the same thing that we do when we use the word pain. We impose the assumption that animals feel pain in a "roughly comparable" manner as soon as we teach them the word. Singer does not rely on the language or the intuition argument alone. He also uses a physiological argument to justify his contention that non-human animals suffer similar sensations to humans.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pg. 70.

To back up our inference from animal behavior, we can point to the fact that the nervous systems of all vertebrates, and especially of birds and mammals, are fundamentally similar. Those parts of the human nervous system that are concerned with feeling pain are relatively old, in evolutionary terms. Unlike the cerebral cortex, which developed fully only after our ancestors diverged from other mammals, the basic nervous system evolved in more distant ancestors common to ourselves and the other 'higher' animals. This anatomical parallel makes it likely that the capacity of animals to feel is similar to our own.

Singer wants to get away from vague definitions of sentience and autonomy that arbitrarily exclude animals. He argues that self-consciousness may change the way we have to treat people as part of equal consideration, but we have to consider the interests of all animals, even those lacking self-consciousness. This goes back to Singer's medicine example. We can treat people differently if they are in different amounts of pain. We can treat self-conscious beings differently because they feel different types of pain than those beings lacking self-consciousness. We still have to "consider" the interests of those being lacking self-consciousness.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pgs. 73-4.

The claim that self-conscious beings are entitled to prior consideration is compatible with the impulse of equal consideration of interests if it amount to no more than the claim that something that happens to self-conscious beings can be contrary to their interests while similar events would not be contrary to the interests of beings who were not self-conscious. This might be because the self-conscious creature has a greater awareness of what is happening, can fit the event into the overall framework of a longer time period, has different desires, and so on. But this is a point I granted at the start of the chapter, and provided that it is not carried to ludicrous extremes - like insisting that if I am self-conscious and a veal calf is not, depriving me of veal causes more suffering hat depriving the calf of his freedom to walk, stretch, and eat grass - it is not denied by the criticisms I made of animal experimentation and factory farming.

Singer also feels that distinguishing self-conscious beings from those lack self-consciousness should apply within the human species if it applies to beings outside of the human species.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pgs. 74-5.

There is another possible reply to the claim that self-consciousness, or autonomy, or some similar characteristic, can serve to distinguish human from nonhuman animals: recall that there are intellectually disabled humans who have less claim to be regarded as self-conscious or autonomous than many non-human animals. If we use these characteristics to place a gulf between humans and other animals, we place these less able humans on the other side of the gulf; and if the gulf is taken to mark a different in moral status, then these humans would have the moral status of animals rather than humans.

At this point, Singer gets in to a lot of trouble. He was invited to lecture in Germany but his invitation was withdrawn due to protests from disabled citizens interest groups. It is the sort of language in the last quote that infuriates many people. Singer argues that there may be a reason to treat some beings differently because they lack self-consciousness. However, he applies this to humans as well as non-human animals. In many cases, he finds the case for protecting non-human animals stronger than protecting certain humans (infants, the several disabled, etc.). He not only equates people with certain dramatic disabilities with animals, he actually argues that the animals have a stronger case for protection. This puts him in a strange position. He argues that animals deserve greater protection. Later he argues that infanticide (the killing of the very young) is justified in the case of severe disability. He wants to err on the side of protecting animals. He does not seem to have the same empathy for disabled children. Arguments and examples like that included in the last quote have lead people to protest his speeches so vocally that he has a problem being heard at his own lectures.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pg. 119.

Admittedly, all this is speculative. It is notoriously difficult to establish when another being is self-conscious. But if it is wrong to kill a person when we can avoid doing so, and there is real doubt about whether a being we are thinking of killing is a person, we should give that being the benefit of the doubt. The rule here is the same as that among deer hunters: if you see something moving in the bushes and are not sure if it is a deer or a hunter, don't shoot! (We may think that hunters shouldn't shoot in either case, but the rule is a sound one within the ethical framework hunters use.) On these grounds, a great deal of the killing of non-human animals must be condemned.

Singer spends quite a bit of time developing the questions of animal rights, euthanasia, infanticide, etc. You should consult the original text for these arguments. The review of the extension of equal consideration of interests to non-human animals is illustrative of Singer's method of argumentation. I do not spend much time on this topic because it is not one that is the subject of many LD topics (none in my memory or the foreseeable future). In the next section I will investigate Singer's arguments on a more LD relevant pair of topics: world hunger and civil disobedience.

Discussion Questions

1. Is equality the best presumption when distributing rights (rather than say, historical claims)?
2. How can you tell if you have given two people equal consideration of their interests?
3. How can you tell if animals feel pain in the same way that humans do?

Resolutions

1. Resolved: that government provision of welfare ought to be valued above individual economic freedoms.
2. Resolved: that the principle of majority rule ought to be value above the principle of minority rights.
3. Resolved: that animal experimentation is immoral.

APPLICATIONS OF SINGER'S ETHICS

As you can probably tell, Singer is very interested in practical ethical lessons. Singer's book includes a number of chapters on specific contemporary problems. He identifies areas where ethical theory is either weak or non-existent. As mentioned in the section on animal rights, he wants to tackle the biggest questions first; those questions that can potentially reduce the most suffering. Of course this all assumes that people will change their behavior.

World Hunger

Singer is a vocal proponent of massive redistribution of wealth from rich countries to developing countries. In this section, I will discuss the argument that he builds in order to justify this position.

Singer starts with a statement of the severity of world hunger.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pg. 218.

Consider these facts: by the most cautious estimates, 4000 million people lack the calories, protein, vitamins, and minerals needed to sustain their bodies and minds in a healthy state. Millions are constantly hungry; others suffer from deficiency diseases and from infections that they would be able to resist on a better diet. Children are the worst effected. According to one study, 14 million children under five die every year from the combined effects of malnutrition and infection. In some districts half the children born can be expected to die before their fifth birthday.

These are dire circumstances. Millions are suffering everyday. It makes sense that Singer would be interested in this suffering. Singer would not have much to say if this was a problem that we could not solve. However, Singer suggests that we can feed the world if we change our distribution of food and our dietary habits.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pg. 220.

The problem is not that the world cannot produce enough to feed and shelter its people. People in the poor countries consume, on average, 180 kilos of grain a year, while North Americans average around 900 kilos. The difference is caused by the fact that in the rich countries we feed most of our grain to animals, converting it into meat, milk, and eggs. Because this is a highly inefficient process, people in rich countries are responsible for the consumption of far more food than those in poor countries who eat few animal products. If we stopped feeding animals on grains and soybeans, the amounts of food saved would - if distributed to those who need it - be more than enough to end hunger throughout the world.

If we could simply transform the population in to vegans, we would have plenty of food in the world. If necessity is the mother of invention, we might even come up with ways to make tofu and soy edible. Until that time, we are all killers because our diet deprives the world of needed grain resources.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pgs. 222.

If these are the facts, we cannot avoid concluding that by not giving more than we do, people in rich countries are allowing those in poor countries to suffer from absolute poverty, with consequent malnutrition, ill health, and death. This is not a conclusion that applies only to governments. It applies to each absolutely affluent individual, for each of us has the opportunity to do something about the situation; for instance, to give our time or money to voluntary organizations like Oxfam, Care, War on Want, Freedom from Hunger, Community Aid Abroad, and so on. If, then, allowing someone to die is not intrinsically different from killing someone, it would seem that we are all murderers.

This is very strong language. He will have to back this up. He wants to create a parallel between buying a hamburger (or a CD player) and killing a person in a distant country. He attacks this problem by stating the differences that people might imagine exist between spending money on luxury items and shooting a person. After stating the objections, he will respond to each one in turn.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pgs. 223.

There are several significant differences between spending money on luxuries instead of using it to save lives, and deliberately shooting people. First, the motivation will normally be different. Those who deliberately shoot others go out of their way to kill; they presumably want their victims dead, from malice, sadism, or some equally unpleasant motive. A person who buys a new stereo system presumably wants to enhance her enjoyment of music - not in itself a terrible thing. At worst, spending money on luxuries instead of giving it away indicates selfishness and indifference to the sufferings of others, characteristics that may be undesirable but are not comparable with actual malice or similar motives. Second, it is not difficult for most of us to act in accordance with a rule against killing people: it is, on the other hand, very difficult to obey a rule that commands us to save all the lives we can. To live a comfortable, or even luxuries life it is not necessary to kill anyone; but it is necessary to allow some to die whom we might have saved, for the money that we need to live comfortably could have been given away. Thus the duty to avoid killing is much easier to discharge completely than the duty to save. Saving every life we could would mean cutting our standard of living down to the bare essentials needed to keep us alive. To discharge this duty completely would require a degree of moral heroism utterly different from that required by mere avoidance of killing. A third difference is the greater certainty of the outcome of shooting when compared with not giving aid. If I point a loaded gun at someone at close range and pull the trigger, it is virtually certain that the person will be killed; whereas the money that I could give might be spent on a project that turns out to be unsuccessful and helps no one. Fourth, when people are shot there are identifiable individuals who have been harmed. We can point to them and to their grieving families. When I buy a stereo system, I cannot know who my money would have saved if I had given it away. In a time of famine I may see dead bodies and grieving families on television reports, and I might not doubt that my money would have saved some of them; even then it is impossible to point to a body and say that had I not bought the stereo, that person would have survived. Fifth, it might be said that the plight of the hungry is not my doing, and so I cannot be held responsible for it. The starving would have been starving if I had never existed. If I kill, however, I am responsible for my victims' deaths, for those people would not have died if I have not killed them.

Singer tackles each of these objections individually. You should pay attention to two qualities in each response. First, you should read the responses for the argument made therein. Judge whether you feel that answer is adequate. Second, think about the strategy that Singer uses for answering each question. Consider why he uses examples when he does. Consider why he responds to each objection in the manner that he does.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pgs. 225-6.

1. Take the lack of an identifiable victim first. Suppose that I am a traveling salesperson, selling tinned food, and I learn that a batch of tins contains a contaminant, the known effect of which, when consumed, is to double the risk that the consumer will die from stomach cancer. Suppose I continue to sell the tins. My decision may have no identifiable victims. Some of those who eat the food will die from the cancer. The proportion of consumers dying in this way will be twice that of the community at large, but who among the consumers died because they ate what I sold, and who would have contracted the disease anyway? It is impossible to tell; but surely this impossibility makes my decision no less reprehensible than it would have been had the containment had more readily detectable, though equally fatal, effects.

This is the first of Singers hypothetical examples to use as disproof. This is interesting considering his stand regarding critical moral decision-making. Earlier he claimed that strange counterexamples were a bad method for examining morality. Hard cases make bad morality. Here he exclusively uses examples to disprove important arguments against his position.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pgs. 226.

2. The lack of certainty that by giving money I could save a life does reduce the wrongness of not giving, by comparison with deliberate killing; but it is insufficient to show that not giving is acceptable conduct. The motorist who speeds through pedestrian crossings, heedless of anyone who might be on them, is not a murderer. She may never actually hit a pedestrian; yet what she does is very wrong indeed.

Singer actually tries to make a normal argument in response to the next point.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pgs. 226.

3. The notion of responsibility for acts rather than omissions is more puzzling. On the one hand, we feel ourselves to be under a greater obligation to help those whose misfortunes we have caused. (It is for this reason that advocates of overseas aid often argue that Western nations have created the poverty of third world nations, through forms of economic exploitation that go back to the colonial system). On the other hand, any consequentialist would insist that we are responsible for all the consequences of our actions, and if a consequence of my spending money on a luxury item is that someone dies, I am responsible for that death. It is true that the person would have died even if I had never existed, but what is the relevance of that? The fact is that I do exist, and the consequentialist will say that our responsibilities derive from the world as it is, not as it might have been.

Singer reveals how dedicated he is to consequentialism with this answer. He uses responsibility in a very interesting way and reveals a major criticism of his (and other consequentialist's) position. In a consequentialist moral system, we are responsible for any evil in the world, whether we caused it or not. Responsibility is traditionally associated with the actions (or potentially the deliberate inactions) of the moral agent. In a consequentialist moral system, your history is irrelevant to morality. You are obligated to reduce suffering whether you caused the suffering or not. It is the condition of the world (the existence of starvation in this case) that matters, not your personal history of actions related to the condition.

This becomes much like the position that Nozick critiques in *ANARCHY, STATE, AND UTOPIA*. Nozick attacks the time-slice views of Rawls. The same arguments apply to Singer and other consequentialists. It is not an accident that Singer seems to take this objection seriously. This is a key objection to the entire consequentialist position.

Singer's argument also relates to the commission / omission debate that appears in the positive rights debate. Singer is arguing for a positive right, in a sense. He argues that all people have positive rights to equal consideration of interests that can create positive duties to aid. Of course, Singer would object to the use of the term right as most people use it but the arguments are closely related. Critics of positive rights theories (contract theorists, libertarians, etc.) would dispute Singer's assumption that obligations related to actions (obligations of commission) and obligations related to not acting (obligations of omission) are equivalent.

Singer, Peter. *PRACTICAL ETHICS: SECOND EDITION*. New York, NY: Cambridge University Press. 1993. Pgs. 227.

What of the difference in motivation? That a person does not positively wish for the death of another lessens the severity of the blame she deserves; but not by as much as our present attitudes in giving aid suggest. The behavior of the speeding motorist is again comparable, for such motorists usually have no desire at all to kill anyone. They merely enjoy speeding and are indifferent to the consequences. Despite their lack of malice, those who kill with cars deserve not only blame but also severe punishment.

Singer goes back to his examples. Let's dissect this example a bit. Speeding motorists are responsible for all of the potential consequences of their actions. Even if they do not want to kill someone, they are responsible for acting in a manner that could eventually lead to death. This is pretty uncontroversial. However, it can have some interesting consequences if we expand the example a bit.

Every motorist takes the lives of others in his or her hand when he or she drives. There is always the possibility of a fatal accident. Does this mean that all motorists are responsible for accidental deaths to the same degree as the deliberate act of murder? Our legal system distinguishes the severity of punishment based on the motive behind an action. Accidents are punished less severely than deliberate acts. We would have to punish people based on a much more complicated system if Singer is correct. Any action that could possibly result in death is a reckless activity. We could not use a "reasonable person" test to decide whether the risks were reasonable or unreasonable (and thereby worthy of greater punishment). We could not differentiate between degrees of murder or even manslaughter. This would result in major changes in the way we live (including the driving of cars, the practice of medicine, and construction).

Singer concludes by an extended discussion of the final objection and the obligation to save people.

Singer, Peter. PRACTICAL ETHICS: SECOND EDITION. New York, NY: Cambridge University Press. 1993. Pgs. 227-30.

5. Finally, the fact that to avoid killing people is normally not difficult, whereas to save all one possibly could save is heroic, must make an important difference to our attitude to failure to do what the respective principles demand. Not to kill is a minimum standard of acceptable conduct we can require of everyone; to save all one possible could is not something that can realistically be required, especially not in societies accustomed to giving as little as ours do. Given the generally accepted standards, people who give, say, \$1000 a year to overseas aid organizations are more aptly praised for above average generosity than blamed for giving less than they might. The appropriateness of praise and blame is, however, a separate issue from the rightness or wrongness of actions. The former evaluates the agent: the latter evaluates the action. Perhaps many people who give \$1000 really ought to give at least \$5000, but to blame them for not giving more could be counterproductive. It might make them feel that what is required is too demanding, and if one is going to be blamed anyway, one might as well not give anything at all. The path from the library at my university to the humanities lecture theatre passes a shallow ornamental pond. Suppose that on my way to a lecture I notice that a small child has fallen in and is in danger of drowning. Would anyone deny that I ought to wade in and pull the child out? This will mean getting my clothes muddy and either canceling my lecture or delaying it until I can find something dry to change into; but compared with the avoidable death of a child this is insignificant. A plausible principle that would support the judgment that I ought to pull the child out is this: if it is in our power to prevent something very bad from happening, without thereby sacrificing anything of comparable moral significance, we ought to do it. This principle seems uncontroversial. It will obviously win the assent of consequentialists; but non-consequentialists should accept it too, because the injunction to prevent what is bad applies only when nothing comparably significant is at stake. Thus the principle cannot lead to the kinds of actions of which non-consequentialists strongly disapprove - serious violations of individual rights, injustice, broken promises, and so on. If non-consequentialists regard any of these as comparable in moral significance to the bad thing that is to be prevented, they will automatically regard the principle as not applying in those cases in which the bad thing can only be prevented by violating rights, doing injustice, breaking promises, or whatever else is at stake. Most non-consequentialists hold that we ought to prevent what is bad and promote what is good. Their dispute with consequentialists lies in the insistence that this is not the sole ultimate ethical principle: that it is an ethical principle is not denied by any plausible ethical theory.

Singer suggests that we are morally obligated to prevent any suffering that we can as long as we do not have to sacrifice "comparable" goods. If we would risk a life in order to save a life, we can morally decide not to jump in the lake to save the drowning child (maybe you are a bad swimmer and you are just as likely to die as well). Of course, comparability is tough. Obviously getting one's clothes wet is not comparable to saving a life. What about comparisons of risk? Should I sacrifice money in order to help other people get food? Education? Recreation?

Singer suggests that accepting even non-comparable sacrifices will require a substantial change in the way that we live in an affluent country.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pgs. 230.

Nevertheless the uncontroversial appearance of the principle that we ought to prevent what is bad when we can do so without sacrificing anything of comparable moral significance is deceptive. If it were taken seriously and acted upon, our lives and our world would be fundamentally changed. For the principle applies, not just to rare situations in which one can save a child from a pond, but to the everyday situation in which we can assist those living in absolute poverty. In saying this I assume that absolute poverty, with its hunger and malnutrition, lack of shelter, illiteracy, disease, high infant morality, and low life expectancy, is a bad thing. And I assume that it is within the power of the affluent to reduce absolute poverty, without sacrificing anything of comparable moral significance. If these two assumptions and the principle we have been discussing are correct, we have an obligation to help those in absolute poverty that is no less strong than our obligation to rescue a drowning child from a pond. Not to help would be wrong, whether or not it is intrinsically equivalent to killing. Helping is not, as conventionally thought, a charitable act that it is praiseworthy to do, but not wrong to omit; it is something that everyone ought to do.

Singer reformulates this example in to a formal argument.

Singer, Peter. PRACTICAL ETHICS: SECOND EDITION. New York, NY: Cambridge University Press. 1993. Pgs. 230-1.

This is the argument for an obligation to assist. Set out more formally, it would look like this.

First premise: If we can prevent something bad without sacrificing anything of comparable significance, we ought to do it.

Second premise: Absolute poverty is bad.

Third premise: There is some absolute poverty we can prevent without sacrificing anything of comparable moral significance.

Conclusion: We ought to prevent some absolute poverty.

I much prefer arguments presented in this format. It is much easier to see what an argument assumes and how different parts of the argument relate to each other. This makes the argument much easier to analyze.

Of course, some of these premises are more controversial than others. Singer already argued for the first premise (though many opponents of positive rights models would still reject the argument). The second premise is uncontroversial. It is worth noting that absolute poverty is a specific term for Singer. Absolute poverty is the type of poverty that you have seen in developing nations. Absolute poverty is the poverty where a person cannot find any clean water to drink, clothes to wear, or shelter. This is distinguished from most poverty in the US where people need help but they can provide for basic essentials. No one argues that absolute poverty is good, so the second premise is strong.

The third premise is more troublesome.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pg. 231.

The third premise is more controversial, even though it is cautiously framed without the sacrifice of anything of comparable moral significance. It thus avoids the objection that any aid I can give is just "drops in the ocean" for the point is not whether my personal contribution will make any noticeable impression on world poverty as a whole (of course it won't) but whether it will prevent some poverty. This is all the argument needs to sustain its conclusion, since the second premise says that any absolute poverty is bad, and not merely the total amount of absolute poverty. If without sacrificing anything of comparable moral significance we can provide just one family with the means to raise itself out of absolute poverty, the third premise is vindicated.

Singer next considers a popular objection that is unique to an international obligation to aid. Many critics maintain that we have plenty of good charities in our community. We should help our fellow citizens first, only later helping people in other countries. Singer argues that this fails to distinguish between absolute and other forms of poverty and suffers from a type of nationalist preference similar to racism.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pgs. 232-3.

Anyone who has worked to increase overseas aid will have come across the argument that we should look after those near us, our families, and then the poor in our own country, before we think about poverty in distant places. Consider, for instance, racial affinities. Should people of European origin help poor Europeans before helping poor Africans? Most of us would reject such a suggestion out of hand, and our discussion of the principle of equal consideration of interests.... Has shows why we should reject it: people's need for food has nothing to do with their race, and if Africans need food more than Europeans, it would be a violation of the principle of equal consideration to give preference to European. The same point applies to citizenship or nationhood. Every affluent nation has some relatively poor citizens, but absolute poverty is limited largely to the poor nations. Those living on the streets of Calcutta, or in the drought-prone Sahel region of Africa, are experiencing poverty unknown in the West. Under these circumstances it would be wrong to decide that only those fortunate enough to be citizens of our own community will share our abundance.

Singer finds similar problems with the argument that we have stronger obligations to our own children.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pgs. 233.

We feel obligations of kinship more strongly than those of citizenship. Which parents could give away their last bowl of rice if their own children were starving? To do so would seem unnatural, contrary to our nature as biologically evolved beings - although whether it would be wrong is another question altogether. In any case, we are not faced with that situation, but with one in which our own children are well-fed, well-clothed, well-educated, and would now like new bikes, a stereo set, or their own car. In these circumstances any special obligation we might have to our children have been fulfilled, and the needs of strangers make a stronger claim upon us.

This is a very interesting view of the obligations to one's children. Singer seems to suggest that if we have any obligations to our children, it is to provide a minimal basis for life. We should provide them with food and clothes but we should not spend money to make them happy. What about spending on education? If everyone paying private school tuition would move their children to public school and apply the savings to international aid, there would be substantially less world hunger. I doubt that private schools have anything to worry about. Many parents feel the obligation to give their children the best life possible, not a minimal life. They want to provide the best education and the best food. They are not going to sacrifice sending their children to an elite school in order to feed distant children. The difference between these views is whether the obligation to one's children is minimal or extensive.

The prevention of absolute poverty combined with the comparable sacrifice qualifier, creates an inherent check to avoid the accusation that foreign aid will bankrupt source nations.

Singer, Peter. PRACTICAL ETHICS: SECOND EDITION. New York, NY: Cambridge University Press. 1993. Pgs. 234.

The element of truth in the view that we should first take care of our own, lies in the advantage of a recognized system of responsibilities. When families and local communities look after their own poorer members, ties of affection and personal relationships achieve ends that would otherwise require a large, impersonal bureaucracy. Hence it would be absurd to propose that from now on we all regard ourselves as equally responsible for the welfare of everyone in the world; but the argument for an obligation to assist does not propose that. It applies only when some are in absolute poverty, and other can help without sacrificing anything of comparable moral significance. To allow one's own kin to sink into absolute poverty would be to sacrifice something of comparable significance; and before that point had been reached, the breakdown of the system of family and community responsibility would be a factor to weigh the balance in favor of a small degree of preference for family and community. This small degree of preference is, however, decisively outweighed by existing discrepancies in wealth and property.

Singer suggests that community ties (and historical relationships) have some minor weight. These associations matter insofar as they lead to good consequences by creating aid and giving networks. This is a very thin model of community attachments. Community membership is only meaningful as a useful contrivance that makes living easier. This is common to many types of utilitarianism. This is interesting because many communitarians are consequentialists, but they distinguish between the needs of community members and the needs of those outside of the community. To Singer this would simply be racist.

Singer provides a justification for massive transfers of wealth from rich to poor nations. In this you can see how Singer moves from his central moral principle (the principle of equal consideration of interests) to practical problems.

Civil Disobedience

The final application from Singer's book that we will consider is civil disobedience. Civil disobedience is always a touchy subject for contract theories of rights. You are obligated to follow the law, but you can also be obligated to break unjust laws. This creates an odd tension in many theories of justice. How can we be obligated to follow laws that we can also be obligated to break?

From a consequentialist perspective, this dilemma is pretty simple. We are obligated to follow the law unless there it would be in the interests of more people to break the law. Singer starts his defense of this view with an attack on a simple moral rule that gets a lot of airtime in LD.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pg. 292.

The question cannot be dealt with by invoking the simplistic formula: 'the end never justifies the mean.' For all but the strictest adherents of an ethic of rules, the end sometimes does justify the means. Most people think that lying is wrong, other things being equal, yet think it is right to lie in order to avoid cause unnecessary offence or embarrassment - for instance, when a well-meaning relative gives you a hideous vase for your birthday, and then asks if you really like it. If this relatively trivial end can justify lying, it is even more obvious that some important end - preventing a murder, or saving animals from great suffering - can justify lying. Thus the principle that the end cannot justify the means is easily breached. The difficult issue is not whether the end can ever justify the mean, but which means are justified but which ends.

In many ways this is the topic of the book. What ends (interests) justify the breaking of what moral rules? This section will deal with an area that many use as an example of when it is right to break a rule (a law) in order to promote a goal. Civil disobedience can take on many forms. The most famous cases of civil disobedience are the peaceful protests of Martin Luther King Jr. and Ghandi. They popularized the moral justification of publicizing dissent through peaceful resistance. Singer accepts their belief that it is right to resist a law that you feel is contrary to the greater interest.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pgs. 295-6.

If we think that a practice is seriously wrong, and if we have the courage and ability to disrupt this practice by breaking the law, how could the illegality of this action provide an ethical reason against it? To answer a question as specific as this, we should first ask a more general one: why have laws at all?

Any system of simple moral rules has trouble with civil disobedience. One must follow laws in most cases. That is obvious and non-controversial. In a simple rule-based system, this simple moral rule is absolute. A utilitarian like Singer can avoid this by justifying obedience to law conditionally on the consequences of obedience, just like he justifies any action.

Before he can weigh the utility of civil disobedience, he must fully appreciate the utility of obedience to rules. This requires an analysis of the reasons behind legal systems.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pgs. 296-7.

Human beings are social by nature, but not so social that we do not need to protect ourselves against the risk of being assaulted or killed by our fellow humans. We might try to do this by forming vigilante organizations to prevent assaults and punish those who commit them; but the results would be haphazard and liable to grow into gang warfare. Thus it is desirable to have, as John Locke said long ago, 'an established, settled, known law', interpreted by an authoritative judge and backed with sufficient power to carry out the judge's decisions. If people voluntarily refrained from assaulting others, or acting in other ways inimical to a harmonious and happy social existence, we might manage without judges and sanctions. We would still need law-like conventions about such matters as which side of the road one drives on. Even an anarchist utopia would have some settled principles of cooperation. So we would have settled principles of cooperation. So we would have something rather like law.... So laws and a settled decision-procedure to generate them are a good thing. This gives rise to one important reason for obeying the law. By obeying the law, I can contribute to the respect in which the established decision-procedure and the laws are held. By disobeying I set an example to others that may lead them to disobey too. The effect may still multiply and contribute to a decline in law and order. In an extreme case it may lead to civil war.

So there are good reasons for supporting laws. They have a purpose. The decision to break a law must provide more utility than it costs in the erosion of the legal system and the legitimacy of law. At the very least, one must deal with the advantages and disadvantages on a case-by-case basis.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pg. 297.

Where they are applicable, these two reasons for obedience are not conclusive, because there are times when the reasons against obeying a particular law are more important than the risks of encouraging others to disobey or the costs to the community enforcing the law. They are genuine reasons for obeying, and in the absence of reasons for disobeying, are sufficient to resolve the issue in favor of disobedience; but where there are conflicting reasons, we must assess each case on its merits in order to see if the reasons for disobeying outweigh these reasons for obedience. If, for instance, illegal acts were the only way of preventing many painful experiments on animals, of saving significant areas of wilderness, or of prodding governments into increasing overseas aid, the importance of the ends would justify running some risk of contributing to a general decline in obedience to law.

The ability to practice civil disobedience is necessary for the many cases when legal channels of law are not sufficient to reform the evils you face.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pg. 298.

It is true that in democratic societies there are legal procedures that can be used by those seeking reforms; but this in itself does not show that the use of illegal means is wrong. Legal channels may exist, but the prospects of using them to bring about change in the foreseeable future may be very poor. While one makes slow and painful progress - or perhaps no progress at all - through these legal channels, the indefensible wrongs one is trying to stop will be continuing... .. An extremely remote possibility of legal change is not a strong reason against using means more likely to succeed. The most that can follow from the mere existence of legitimate channels is that, since we cannot know whether they will prove successful until we have tried them, their existence is a reason for postponing illegal acts until legal means have been tried and have failed.

This is fairly practical advice. You cannot sit around and watch suffering even if there is little chance that anything will change. However, you must try the legitimate channels of influence first. The legitimate channels may provide all of the benefits associated with the change without the disruptive influence of law breaking.

This is a very contemporary question. We seem to be moving in to a new era of protest. Under the title of "direct actions" anti-globalization and pro-environment groups have found new ways to break laws and bring attention to their cause (while disrupting the activities of their opponents). This is becoming a very popular political tool. Some environmental groups have moved in to environmental terrorism to prevent deforestation. Are these legitimate activities? Have they given the political process enough time to address their concerns? What is the effect of people seeing the breaking of rules on TV? These will be important questions in the coming years if these protests continue.

In a democracy, Singer argues, we should be particularly hesitant to break laws.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pg. 302.

In a democracy we should be reluctant to take any action that amounts to an attempt to coerce the majority, for such attempts imply the rejection of majority rule and there is no acceptable alternative to that. There may, of course, be cases where the majority decision is so appalling that to obey a genuine majority decision is not absolute. We show our respect for the principle not by blind obedience to the majority, but by regarding ourselves as justified in disobeying only in extreme circumstances.

There are two different reasons that one might use civil disobedience in a democracy. Each situation has different implications for the moral resistance to established laws. Singer describes each of these scenarios before he considers the limitations on civil disobedience in each case. For Singer, there is no problem with claiming that the morality of civil disobedience depends on situations. His entire moral system is based on situational analysis. He has a lot more leeway to consider specific examples because of his situational orientation.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pg. 302.

We have seen that there are two distinct ways in which one might try to justify the use of illegal means in a society that is democratic (even if imperfectly so, as, to varying degrees, existing democracies are). The first is on the grounds that the decision one is objecting to is not a genuine expression of majority opinion. The second is that although the decision is a genuine expression of the majority view, this view is so seriously wrong that action against the majority is justified.

In the first case, Singer can allow civil disobedience as an awareness-raising tool. If only people knew what was going on, they would petition their legislators to change the law. The previous law, in this view, is the product of public ignorance and acquiescence.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pgs. 302-3.

It is disobedience on the first ground that best merits the name 'civil disobedience'. Here the use of illegal means can be regarded as an extension of the use of legal means to secure a genuinely democratic decision. The extension may be necessary because the normal channels for securing reform are not working properly. On some issues parliamentary representatives are overly influenced by skilled and well-paid special interests. On others the public is unaware of what is happening. Perhaps the abuse requires administrative, rather than legislative change, and the bureaucrats of the civil service have refused to be inconvenienced. Perhaps the legitimate interests of a minority are being ignored by prejudiced officials. In all of these cases, the now-standard forms of civil-disobedience - passive resistance, marches, or sit-ins - are appropriate.

This is much harder to apply in practice than in theory. Clearly there must be a way to raise awareness when legislators or bureaucrats are not representing the majority. Whether it is a legislator in the pockets of tobacco lobbyists or racist school administrators who fight desegregation, there are plenty of ways that the majority will can be thwarted. The problem is that every college kid in the country thinks that his or her cause justifies civil disobedience. The result is that every rich kid flies all over the world to protest globalization. This is a noble (if not misguided, in my opinion) gesture, the ethic of civil disobedience also drives these people to destroy property and vandalize streets. That really sticks it to the man. The result is unnecessary violence by an overreacting police force and no one remembers the message of the protest. These types of protests develop in to out-right terrorism as protesters burn down factories and housing developments.

The key problem is subjectivity. Singer leaves it in the hand of every person to individually decide when civil disobedience is justified. Handing this sort of power over to protesters leads to the potential for abused powers. Maybe I am just a Hobbesian, but I think that it is better to leave the legislating to the professionals and use the various available channels for influence. I have to grant that working outside of the channels is necessary sometimes, but the globalization protests are just getting silly. More people remember the juvenile actions of the protesters than the causes for which they protested. I guess this is why I am not a "progressive."

Singer also seems very reluctant to grant too much discretion to protesters. He warns that we can only raise awareness, not coerce the majority.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pg. 303.

In these situations disobeying the law is not an attempt to coerce the majority. Instead disobedience attempts to inform the majority; or to persuade the parliamentarians that large numbers of electors feel very strongly about the issue; or to draw national attention to an issue previously left to bureaucrats; or to appeal for reconsideration of a decision too hastily made. Civil disobedience is an appropriate means to these ends when legal means have failed, because, although it is illegal, it does not threaten the majority to attempt to coerce them (though it will usually impose some extra costs on them, for example law enforcement). By not resisting the force of the law, by remaining non-violent and by accepting the legal penalty for their actions, civil disobedients make manifest both the sincerity of their protests and their respect for the rule of law and the fundamental principles of democracy.

This form of civil disobedience, peaceful protest and awareness raising, is easy to justify. There are not large costs and the potential benefits are important. Of course the trick is to make everything stay peaceful (that has been a problem with the globalization protests).

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pg. 304.

So conceived, civil disobedience is not difficult to justify. The justification does not have to be strong enough to override the obligation to obey a democratic decision, since disobedience is an attempt to restore, rather than frustrate, the process of democratic decision making. Disobedience of this kind could be justified by, for instance, the aim of making the public aware of the loss of irreplaceable wilderness caused by the construction of a dam, or of how animals are treated in the laboratories and factory farms that few people will ever see.

Resisting the actions that are clearly the decision of the majority is harder to justify. You can imagine a situation where awareness has been raised and people simply don't care.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pg. 304.

The use of illegal means to prevent action undeniably in accordance with the majority view is harder - but not impossible - to justify. We may think it unlikely that a Nazi-style policy of genocide could ever be approved by a majority vote, but if that were to happen it would be carrying respect for majority rule to absurd lengths to regard oneself as bound to accept the majority decision. To oppose evils of that magnitude, we are justified in using virtually any means likely to be effective.

One can imagine a noble warrior bombing Nazi ammunitions sites. This person could be a hero. Now, what if that person was not bombing ammunitions sites? What if they were an environmental activist bombing construction sites? Are they still a hero? The problem is that Singer must leave it to each person to decide when "virtually any means" is possible.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pgs. 304-5.

The only answer this question can have is: we must decide for ourselves on which side of the line particular cases fall. There is no other way of deciding, since the society's method of settling issues has already made a decision. The majority cannot be judge in its own case. If we think the majority decision is wrong, we must make up our own minds about how gravely it is wrong.

So, go ahead and shoot doctors that provide abortions as long as you think Roe. V. Wade is gravely wrong. For someone who does not trust the majority, Singer sure is quick to trust every individual nut with high school training in chemistry and a gun license.

Singer does provide for a more nuanced view of civil disobedience (and political violence) than absolutist moral theories. At least he has that going for him.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pg. 310.

Absolutist condemnations of violence stand or fall with the distinction between acts and omissions. Therefore they fall. There are, however, strong consequentialist objections to the use of violence. We have been premising our discussion on the assumption that violence might be the only means of changing things for the better. Absolutists have no interest in challenging this assumption is true or false. Consequentialists must ask whether violence ever is the only means to an important end, or, if not the only means, the swiftest means. They must also ask about the long-term effects of pursuing change by violent means.

There must be no other option. Again, though, each individual must judge for him or herself whether other options exist or are too slow. At this point, Singer considers more drastic forms of political protest. He argues that violence (more than simple civil disobedience) is justified in some circumstances. There are limitations on the use of violence. One cannot kill indiscriminately.

Singer, Peter. PRACTICAL ETHICS: SECONDEDITION. New York, NY: Cambridge University Press. 1993. Pg. 311.

One may sympathize with the ends some of these groups are fighting for, but the means they are using hold no promise of gaining their ends. Using these means therefore indicates callous disregard of the interests of their victims. These consequentialist arguments add up to a strong case against the use of violence as a means, particularly when the violence is indiscriminately directed against ordinary members of the public, as terrorist violence often in. In practical terms, that kind of violence would seem never justified.

Hold on! Singer just slipped. He seems to make a lot of concessions to those silly rule-based theories of morality. First, he seems to acknowledge some form of restriction against killing innocent people (or preference for the protecting the innocent). That is not very consequentialist of him. Second, he concludes that something could never be justified. In a pure consequentialist system (and Singer seemed dedicated to a ruthless dedication to his premises up to this point) anything can be justified if it contributes to greater utility/preferences in the long run. Violence could feasibly do this. It is just a more extreme version of the protests that he supported in previous incarnations. Obviously the costs of violence are higher, but that only means that you must reserve them for more dire circumstances. It does not mean that violence is absolutely forbidden. This quote really undermines the consistency of his position. Even terrorism can be justified using his other arguments if the evil one is facing is great enough. He just does not want to be the one justifying terrorism (infanticide and eco-terrorism, fine. But not political terrorism).

Singer does concede that his moral system must allow for some forms of political violence directed against political officials (again assuming some sort of innocence restriction foreign to the rest of his premises).

Singer, Peter. PRACTICAL ETHICS: SECONDE EDITION. New York, NY: Cambridge University Press. 1993. Pg. 311.

There are other kinds of violence that cannot be ruled out so convincingly. There is, for instance, the assassination of a murderous tyrant. Here, provided the murderous policies are an expression of the tyrant's personality rather than part of the institutions he commands, the violence is strictly limited, the aim is the end of much greater violence, success from a single violent act may be highly probable, and there may be no other way of ending the tyrant's rule. It would be implausible for a consequentialist to maintain the committing of violence in these circumstances would have a corrupting effect, or that more, rather than less, violence would result from the assassination.

Singer snuck a deontological principle (the prohibition on killing innocent people) in at the last minute. This illustrates the problems with consequentialist arguments. Most people (and thereby most judges) do believe that some actions are always wrong. Terrorism against innocent people is one of those actions. He risks undermining the public message of his entire book by associating himself with a justification for terrorism. You will have to contend with similar problems if you decide to present a consequentialist position in a debate round. You will have to stand by your argument that there are not actions that are absolutely prohibited, only actions that are not justified given the results they produce at one time or another. A dedicated consequentialist must concede that torture is potentially justifiable as well as terrorism. As compelling as the initial arguments can be, this is a hard position to sell.

Discussion Questions

1. Could a consequentialist value community membership or family associations?
2. How can one tell when a sacrifice is comparable to the benefit achieved by a potential action?
3. How can individuals decide whether an evil is grave enough to justify violence?

Resolutions

1. Resolved: that the United States has a moral obligation to provide monetary aid to developing nations.
2. Resolved: that civil disobedience is justified in a democracy.
3. Resolved: that violent revolution is justified as a response to political oppression.

CONCLUSIONS

Despite the fact that judges tend to dismiss the persuasiveness of utility in LD, it really can be applied to reinforce intuitive notions of morality. Utilitarian theory places a special burden on debaters who defend it; they must be sure that they do not let their opponent define their case.

Debaters tend to support their case without a holistic view of the issues at hand. People, when on the affirmative, tend to discuss the benefits of a resolution and do not talk about the dangers. Utilitarianism requires the judge to compare the costs and the benefits of the proposed resolution. If you are negative, and allow the affirmative to define the judging issue as whether a proposal is good or not, you will probably lose. You must make the judge remember that any topic involves a trade-off. Consider the resolution: Resolved that the protection of free speech ought to be valued above the protection from racist speech. If the judge is simply left to consider whether free speech is good, the negative will lose. The successful use of utility is contingent upon the judge remembering that there are two competing claims and that there are costs to the speech in the resolution.

It is important to recognize the differences between teleological theories and deontological theories. The first distinction is the adherence to rules in deontology. This is not entirely sufficient (as Mill points out). Teleology asserts that there may be obligations but that these obligations are to ends. The true difference is in how the rules are created. Deontologists create rules by a priori reasoning; the teleological thinkers derive obligations from empirical reasoning. This is a very fine distinction that many debate rounds don't approach. It is important to recognize this difference so you do not get backed into a corner.

Both moral theories address which ends are legitimate for moral individuals to hold. The answers differ. It is over-simplified to state that Kant does not look at the ends; he does. Maxims are rules that hold objects as ends, and hopefully hold people as ends as well as means. The difference is in how the authors derive the obligations; not the legitimacy of the term obligation (though Mill and Bentham both seem to find obligation language tedious).

The final way to differentiate between the two major theories of morality is where the final rule resides. Deontologists usually place this final rule in reason; Mill and Bentham place it in happiness. This difference can be used to attack deontology. The resort to rules of reason is generally a resort to ad hoc reasons. Beware of this; but, also, be aware of this. Use it to attack people who unquestioningly rely upon deontological ethics.

Beyond the need to spin utility correctly, it is important to remember the strengths of the theory. Utility is based upon the fundamental equality of all people; this equality can be compelling. At the same time, it can be compelling to present social utility as a means to solve intractable social conflicts as presented in LD resolutions.

The moral of the story is that the waters are rough out there for utility based cases. Used correctly, they can be very compelling and very successful.

EXAMPLE CASE

Prominent British philosopher Jeremy Bentham wrote, "[t]he business of government is to promote the happiness of the society." Because I agree that protecting the societies interest is the sole business of policymakers, I reject today's resolution the possession of nuclear weapons is morally justified.

In order to show that the possession of nuclear weapons is indeed morally justified, I must show that possession is consistent with morality. This suggests that the relevant value for the round is morality. That is non-controversial. Controversy comes as we define the criteria for morality. I propose a simple but powerful system of morality, utilitarianism.

Utilitarianism suggests that happiness is the standard for morality. Bentham stated, "Nature has placed mankind under the governance of two sovereign masters, pain and pleasure. It is for them alone to point out what we ought to do, as well as to determine what we should do. On the one hand the standard of right and wrong, on the other the chain of causes and effects, are fastened to their throne." Bentham argued that this realization that statements of morality require an analysis of happiness leads naturally to accepting the principle of utility. He stated, " By the principle of utility is meant that principle which approves or disapproves of every action whatsoever, according to the tendency which it appears to have to augment or diminish the happiness of the party whose interest is in question: or, what is the same thing in words, to promote or oppose the happiness. I say of every action whatsoever; and therefore not only of every action of a private action, but of every measure of government."

This system of morality is particularly well suited to the issue at hand for the following three reasons.

First, as mentioned in the previous quote, the principle of utility addresses the peculiar demands of legislation. Since the possession of nuclear weapons is predominately a state policy (rather than the action of an individual), a moral system of legislation is appropriate.

Second, the possession of nuclear weapons is a complicated decision in a complicated world. In the face of such complexity, it is essential that a moral system be able to compare the relative weight of competing claims. Utilitarianism is able to weigh competing claims by reducing all claims to a fundamental claim to happiness.

Third, the potential consequences of nuclear weapons policy are immense. It would be particularly irresponsible to disregard the consequences of an action when they include such possibilities as international communism, national extermination, and genocide.

With these justifications for utilitarianism in mind, I turn to my one contention; utilitarianism demands that a state be morally allowed to possess nuclear weapons.

[The following contention is skeletal due to the constraint that I not employ outside evidence. You will see the outline of the argument. Consider which claims need support. This is particularly important in a consequentialist case because consequential claims require empirical information in the form of expert quotations.]

Contention One: utilitarianism permits the possession of nuclear weapons.

In this contention I will show how the possession of nuclear weapons will lead to more happiness than abrogation of the moral right to possess these weapons. The reason is very simple. Possession of nuclear weapons creates a stable system of deterrence. This system of deterrence provides three benefits.

A. The possession of nuclear weapons makes the use of all weapons of mass destruction unlikely. With some nations possessing nuclear weapons, no force will utilize weapons of mass destruction to further their ends. States and terrorists alike will refrain from the use of biological and chemical weapons for fear of nuclear retaliation.

B. The possession of nuclear weapons makes the occurrence of global or total war unlikely. With total devastation the potential consequence of a large-scale war, superpowers will be unlikely to wage a world war. Dropping the nuclear bomb at the end of World War II ended that war and ended the possibility of world wars in the future.

C. The possession of nuclear weapons does not lead to the launch of nuclear weapons. You will notice that the former two advantages accrue to a nation possessing nuclear weapons and do not require their actual use. The possession per se deters threats. Possession, per se, does not cause the damage of use and therefore is not morally accountable for the consequences of use. Additionally, possession of nuclear weapons in a world with other weapons of mass destruction serves to stabilize the world as all possessors are deterred from use by the other possessors.

For these reasons, we can see that the possession of nuclear weapons is morally justified because it prevents the use of weapons of mass destruction and prevents world war.

ANNOTATED BIBLIOGRAPHY

Bentham, Jeremy. THE PRINCIPLES OF MORALS AND LEGISLATION. Prometheus Books. Amherst. 1988.

An often ignored book, this is actually very accessible for high school readers. It deals with the convoluted basis of utilitarianism but does so in a way that many people will find readable (rather than the works of Kant that are very hard to work through). This work will be most useful on topics of jurisprudence and criminal justice because these are specific interests of the authors. The theory of utility is generally useful for most resolutions.

Mill, John Stuart. ON LIBERTY AND UTILITARIANISM. Bantam Books. New York. 1993.

This is a nice little paperback that presents both of Mill's most famous works. It is cheap but I get a kick out of reading this repeatedly due to the beauty of Mill's language. Between these two books, you can find case material for almost every LD topic.

TERMINOLOGICAL APPENDIX

Act Utilitarianism - utilitarianism that bases the morality of any action on the happiness expected to be generated by that specific action.

Hedonic Calculus - the operation of Bentham's complicated system of evaluating the utility of an action. This includes the use of nearness, intensity, and other qualities to compare costs and benefits.

Rule Utilitarianism - utilitarianism that bases the morality of any action on the happiness expected to be generated by a general rule. Instead of asking whether killing a criminal in a specific case is justified, rule utilitarianism asks whether the world would be better off if everyone acted based on this rule. In this way, utilitarianism can be consistent with rights.

ACKNOWLEDGEMENTS

The acknowledgements page is a strange conceit in a series of books like this. Stranger still is the set of influences that drove me to write this page on this particular night. A powerful television show and a few hours of listening to music have made me nostalgic. The television show is hard to explain, but I will try with the music. In preparation for my trip to teach debate this summer at the University of Kentucky, I have been archiving my CDs in MP3 format so that I can take them with me. While doing this, I have been listening to a band that I first heard at the first debate camp I attended. Suddenly, I realized how much I have changed since that time, and how many debts I owe. The band has long since broken up, but debate is still a daily part of my life.

I could use this space to thank all of the people to whom I owe debts. I have done that in other places. I hope that the other acknowledgements will suffice. You know who you are and do not need a notation here to realize how important you have been to me. Between previous editions of these books, my LD Road Guide, and my own dissertation, I am all out of personal acknowledgements.

But, I still have to thank the debate community. It is a little vague but debate, as a whole, has had a profound effect on my life. I have had the opportunity to learn from people passionate about critical thinking and public speaking. I have been able to talk to intelligent people about justice and morality. I have been referred to great texts that could easily have passed below my radar screen. I am a much better person for my experiences in debate. As a coach, I have had the opportunity to share in the learning and success of a wide variety of students. I have had the opportunity to work with future national champions. I have been able to work with people who want nothing more than to break at a tournament. Both of these groups of students shared one quality: a passion for their work. The passion of a hard worker is truly contagious. I always come away from my summer coaching energized and ready to tackle my work just like the students at Kentucky return home to start preparations for the next year.

Above all else, debate is synonymous with opportunity. Debate opened doors for me. It helped me academically by opening doors of thought that would otherwise be closed. It opened doors by preparing me for the type of work I do now as a professor of social science. It opened doors into other cultures that I would never have experienced in my relatively sheltered life. I can only hope that my books can help open doors for people like the doors that were opened for me. All I can ever hope for is that my work can help someone get as much out of debate as I once got out of it.

Thank you for a great 11 years.